A SUPPLEMENTARY DIGEST OF CASES RELATING TO PUBLIC HEALTH AND LOCAL GOVERNMENT

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Local Government Publishers.

A SUPPLEMENTARY DIGEST OF CASES

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SUPPLEMENTARY DIGEST

OF MORE THAN 900

CASES

RELATING TO

PUBLIC HEALTH

AND

LOCAL GOVERNMENT,

WITH MORE ESPECIAL REFERENCE TO THE POWERS AND DUTIES OF LOCAL AUTHORITIES,
DECIDED BETWEEN **1892** AND **1902.**

BY

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PREFACE.

THIS work is primarily intended to be a Supplement to my "*Handy Digest of more than 2750 Cases relating to Public Health and Local Government*," published in 1893, which brought the Reported Cases down to November 15, 1892. But it is something more than a supplement, strictly so called, because it covers more ground: that is to say, it includes some subjects on the borderland of Public Health and Local Government not embraced in the previous volume; to wit, Rates and Rating and Parish Councils. As regards the Rating Cases, I have taken them back to 1889 in order to complete to 1902 the long series of Rating Cases given in the Second Edition of my *Law of Local Rates* published in 1889.

Moreover, the digests of each Case are, for the most part, exhibited in a more expanded form, and thus afford more information as to the points decided by each Case than could be given when the summaries were limited to about 6 to 10 lines each. No cases very directly connected with the Laws for the Relief of the Poor are here given, because they deal with matters which lie apart from ordinary Local Government and Towns Improvement Law.

In framing the digest of each case priority of reference and quotation has always been given to the exceedingly valuable and well-edited *Law Journal Reports*, which have the additional value of having been carried on in a continuous series, and on uniform lines for eighty years—an unprecedented thing in the annals of law reporting. Next in order of references after the *Law Journal* (L. J.) come the *Law Reports* (L. R.), and then the *Law Times Reports* (L. T.) and *Times Law Reports* (*Times* L. R.). When a case is reported in these four works further references are not usually given; but when a Case is reported by only three, two, or one of these chief authorities, additional references have frequently been made to the *Weekly Reporter* and the *Justice of the Peace*, and now and then to the *Weekly Notes* and the *Local Government Chronicle*; but it must not be assumed that because these four last-named publications are not always cited that the Cases in question are not to be found in their pages. Had all the available references been given, many of the Cases would have had no fewer than eight references, and it was thought that such a multiplication of references was quite unnecessary. The *Times* newspaper Law Reports have been so freely cited because they have taken a high position in the Law literary

world; and are republished at a price which has secured for them a very extensive circulation.

With regard to citations from the *Law Reports*, the practice has come into use of making the date of the year an essential part of the reference, but as every Case in this book has its actual date of decision prefixed to it, I have not deemed it necessary to repeat the year-date, except in those instances in which the year-date of the volume does not accord with the actual date when the Judgment in the Case was delivered.

The Cases are brought down to the end of the legal year 1901–2, that is to say, to August 12, 1902; and there they cease, because Cases which would naturally have been included in this volume as between October 24, 1902, and the actual date of publication will be found in the new Knight's *Local Government Reports* at large, now commenced by the Publishers of the present volume. Subject to this reservation, it may be stated that the references have been corrected by the several Reports up to January 31, 1903.

In the sorting of the Cases under their different heads of "Parts," "Sections," and "Sub-sections," etc., the classification follows the system of heads adopted in the *Handy Digest* published in 1893, in order to facilitate the two books being used together. In the few instances in which some additional heads or sub-heads have been found necessary, they have been numbered and arranged in such a way as not to disturb the old numbering, or cause any difficulty in using the new volume and the old together; whilst a few Titles which appear in the previous volume are suppressed here, either because there have been no recent Cases properly belonging to those heads, or because the Cases have been too few to need elaborate classification. This closing remark more especially applies to the Parts headed "Highways" and "County Councils."

G. F. C.

1 Cloisters, Temple,
April, 1903.

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* The numbers prefixed to these sections tally with the numbers of the corresponding sections in the 1892 edition of the *Handy Digest*, and are not in all cases consecutive, because some subjects are not represented amongst the Public Health and Local Government cases decided between 1892 and 1902.

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1897, May 7. [28]
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1893, Oct. 27. [33]
Laidlaw *v.* **Wilson.** "Sale of Food Act, 1875," §§ 6, 25—Contract in writing to deliver pure lard by K. to W.—Some of it resold, and on analysis found to be adulterated—Summons against W.—Held that the contract was a sufficient warranty of purity to satisfy § 25, and that W. was entitled to be discharged from prosecution. (63 L. J., M. C., 35: L. R., [1894] 1 Q. B., 74: 42 W. R., 78: 10 *Times* L. R., 18.)

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Petchey *v.* **Taylor.** "Sale of Food Act, 1875," § 9—Milk sold as "skimmed" from which 97 per cent. of the fat had been abstracted by a "separator," whilst no more than 63 per cent. can be abstracted by "skimming"—Held that appellant had been rightly convicted under the Section—*Jones* v. *Davies* [1893] and *Platt* v. *Tyler* [1894] commented on and explained. (78 L. T., 501: 62 J. P., 360.)

1894, Jan. 24. [48]
Platt *v.* **Tyler.** "Sale of Food Act, 1875," §§ 8-9—P. was charged with selling condensed milk from which 80 per cent. of fat had been abstracted without disclosing to purchaser the alteration—Purchaser was told that it was skimmed milk, and was pointed to a label on the tin in small type, which stated that the milk was skimmed—Justices held that the disclosure was insufficient and convicted P.—Held that the Justices were wrong, and that the disclosure was sufficient. (58 J. P., 71.)

1895, Feb. 14. [49]
Reg. *v.* **Field.** "Sale of Food Act, 1875," § 6—Cocoa shown by Analyst's certificate to have been adulterated with 80 per cent. of starch and sugar—Justices, on the strength of their personal knowledge that all cocoa must contain a large proportion of other ingredients, refused to regard Analyst's certificate as conclusive, and believing that the retailer had not been guilty of any fraud, and that the offence, if any, was of a very trifling description, discharged the accused under § 16 of the "Summary Jurisdiction Act, 1879"—Rule *Nisi* calling on Justices to state a case, discharged. (64 L. J., M. C., 158: 11 *Times* L. R., 240.)

1896, March 28. [50]
Reg. *v.* **Smith.** "Sale of Food Act, 1875," § 20—Prosecutions must take place before Justices having jurisdiction within the district where the offence was committed—An Inspector cannot lawfully procure a sample, nor an Analyst give a valid certificate, where they are not appointed to act in the district in which the offence was committed. (65 L. J., M. C., 104: L. R., 1 Q. B., 598: 74 L. T., 348: 12 *Times* L. R., 301.)

1895, May 7. [51]
Reg. v. Titterton. "Sale of Food Act, 1875," § 26: "Margarine Act, 1887," §§ 11, 12—The application of penalties under the Act of 1887 is part of the "proceedings" within § 12—In a prosecution by a Local Authority's Inspector within the Metropolitan Police District, the penalties are payable to the Inspector under the incorporated § 20 of the Act of 1875, and not to the Receiver of the Metropolitan Police. (64 L. J., M. C., 202: L. R., 2 Q. B., 61: 73 L. T., 345: 11 *Times* L. R., 394.)

1901, July 5. [52]
Rex v. Richards. "Sale of Food Act, 1875," § 14: "Sale of Food Act, 1899," § 13—A person having purchased milk with the intention of having it analysed, had, after dividing the milk into 3 parts, placed the 3 parts in separate bottles—It was shown in evidence that the bottles could be opened without breaking the seals—Held that although it was not shown that the bottles had in fact been tampered with, yet the fact that they might have been tampered with rendered invalid a prosecution under the Acts—Conviction quashed. (At Q. Sess.) (*Loc. Gov. Chron.*, 1902, p. 726.)

1900, April 10. [53]
Robertson v. Harris. "Sale of Food Act, 1875," § 25—Warranty as to article not in existence—Sale and delivery under general contract—Respondent sold adulterated milk purchasd under written contract extending over a considerable period and containing a provision that the milk should be pure and new—Held that in the absence of anything in writing to connect the purchase of the specific milk by respondent with the general contract, he was not protected by the above-mentioned provision in the contract—*Semble*, that to come within the Section, the warranty must be as to an article already in existence. (69 L. J., Q. B., 526: L. R., 2 Q. B., 117: 82 L. T., 536: 16 *Times* L. R., 343.)

1899, Feb. 7. [54]
Shortt v. Robinson. "Sale of Food Act, 1875"—Upon the charge of adulterating food the Justices are entitled to take into consideration facts within their own knowledge as to whether or not the food has been adulterated—*Reg.* v. *Field* [1895] followed. (68 L. J., Q. B., 352: 80 L. T., 261.)

1894, Dec. 18. [55]
Smart v. Watts. "Sale of Food Act, 1875"—The requirements of § 14 are peremptory and cannot be dispensed with—Therefore even if the seller admits the offence at the time, notice to him that it is intended to have an analysis made, and the making of an analysis, are conditions precedent to a prosecution. (64 L. J., M. C., 89: L. R., [1895] 1 Q. B., 219: 71 L. T., 768: 11 *Times* L. R., 144.)

1901. Nov. 21. [56]
Smith v. Wisden. "Sale of Food Act, 1875," § 6—To support a conviction under this Section for selling to the prejudice of the purchaser an article not of the nature, &c., demanded, there must be evidence not only that the article differs from that demanded, but that it is inferior to it—Marmalade which included glucose put in to prevent mildew and fermentation—Held that no offence against the Act had been committed. (85 L. T., 760: 66 J. P.: 18 *Times* L. R., 92.)

1902, May 2. [57]
Smithies v. Bridge. "Sale of Food Act, 1875," § 6—A milk-vendor may be convicted for selling milk deficient in fat where the deficiency is caused by a proportion of the fat having been absorbed by the cow during the unduly long interval of 16 hours between the milkings, though the milk is sold as taken from the cow—Conviction upheld. (71 L. J., K. B., 555: L. R., 2 K. B., 13: 87 L. T., 167: 66 J. P., 740: 18 *Times* L. R., 575.)

1901, May 9. [58]
Sneath v. Taylor. "Sale of Food Act, 1875," sched.—The words, "which then weighed," in Analyst's certificate are directory and not obligatory except where the weight of the sample is material to the accuracy of the analysis—Where this is not so the omission of the weight does not necessarily invalidate the certificate. (70 L. J., K. B., 872: L. R., 2 K. B., 376: 65 J. P., 548.)

1896, May 5. [59]
Spiers & Pond v. Bennett. "Sale of Food Act, 1875," § 9—Milk sold with a notice that the vendors bought the milk for resale under a warranty, but were unable to guarantee its quality and (to meet the Act) did not profess to sell it as new, pure, or with all its cream—Held that such notice constituted a disclosure of the alteration within § 9, and that no offence was committed by the retail vendors—*Dyke* v. *Gower* [1891] commented on. (65 L. J., M. C., 144: L. R., 2 Q. B., 65: 74 L. T., 697: 12 *Times* L. R., 380.

1895, Oct. 25. [60]
Toler v. Bischop. "Margarine Act, 1887," § 6—Margarine sold in cardboard box fastened with adhesive paper band, the word "Margarine" being stamped partly on box partly on band—Box delivered to purchaser wrapped in brown paper on which "Margarine" did not appear—Held that such a box so put up was in a "paper wrapper" and protected by § 6 (3) of the Act, and was not a "package" within § 6 (1): and that if the outer covering of brown paper was added at the request of the purchaser, no offence had been committed against the Section. (65 L. J., M. C., 4: 73 L. T., 403: 12 *Times* L. R., 3.)

1900, May 18. [61]
Tyler *v.* **Kingham.** "Sale of Food Act, 1875," § 21—An Analyst's certificate is only evidence in proceedings against the retailer from whom the article analysed was purchased for analysis—The certificate is not evidence against the original vendor from whom the retailer purchased. (69 L. J., Q. B., 630: L. R., 2 Q. B., 413: 83 L. T., 169: 16 *Times* L. R., 394.)

1902, Feb. 25. [62]
Whitaker *v.* **Pomfret.** "Sale of Food Act, 1899," § 20 (6)—Proceedings under this Section against a person for having given to a purchaser a false warranty in writing must be commenced within 6 months of the giving of the warranty. (71 L. J., K. B., 353: L. R., 1 K. B., 661: 86 L. T., 420: 66 J. P., 408: 18 *Times* L. R., 355.)

4. Aggrieved Party.

1898, Jan. 19. [63]
Ross *v.* **Taylerson.** "Markets & Fairs Clauses Act, 1847," § 13: "Public Health Act, 1875," §§ 253, 316—Information laid against vendor of certain tollable articles by the servant of an association of persons trading in articles of the kind, many of whom used the markets for the sale of such articles—Held that the informant was a "party aggrieved," and that the proceedings were properly instituted. (62 J. P., 181: *Loc. Gov. Chron.*, 1898, p. 119.)

5. Appointment of Officers.

1899, Jan. 20. [64]
Reg. *v.* **Powell.** It is not essential to the validity of the appointment of an Assistant Overseer by a Parish Council that a formal appointment should be drawn up—A simple resolution passed by the Council suffices—*Mandamus* issued to Overseers to deliver parish books to the Assistant Overseer. (68 L. J., Q. B., 274: L. R., 1 Q. B., 396: 80 L. T., 184: 15 *Times* L. R., 159.)

6. Apportionment.

1895, July 30. [65]
Metrop. District Railway Co. *v.* **Fulham Vestry.** "Metropolis Management Amendment Act, 1862," § 77—Paving new street—Discretion of Local Authority—An apportionment of paving expenses is not invalid by reason of its being at a higher rate in the case of one piece of land abutting on the street than in the case of another—Such apportionment is in the absolute discretion of the Authority, and so long as it is made *bonâ fide* neither Magistrate nor Court can interfere—*Stotesbury* v. *St. Giles's, Camberwell*, [1888] approved. (65 L. J., Q. B., 29: L. R., 2 Q. B., 443: 73 L. T., 330.)

7. Arbitration.

1900, Nov. 8. [66]
Cawston *v.* **Bromley U. D. C.** "Public Health Act, 1875," §§ 150, 257—In an arbitration respecting the apportionment of paving expenses, the Surveyor's certificate is conclusive on the Umpire as to the total amount charged against the frontagers. (17 *Times* L. R., 25: [*Bromley and Cawston, In re*] 64 J. P., 760.)

1899, May 12. [67]
Davies and Rhonnda U. D. C., In re. "Public Health Act, 1875," § 308—Diseased Meat—Arbitration—Upon an arbitration under this Section all that the Arbitrator may consider is whether the person claiming compensation has suffered damage, and, if so, the amount—The costs of successfully defending a prosecution for exposing for sale unsound meat, which meat is the subject of claim for compensation, cannot be recovered as damages. (80 L. T., 696.)

1891, Dec. 7. [68]
Eyre and Leicester Corporation, In re. "Arbitration Act, 1889," § 5—Held that the words of a notice to "concur in the appointment" of an Arbitrator was a good notice to appoint one under this Section—Where all the conditions prescribed in the Section are fulfilled, and it is clear that part at least of the claim is within the submission, the word "may" in § 5 means "must," and the Court or Judge has no discretion, but must appoint an Arbitrator. (61 L. J., Q. B., 438: L. R., [1892] 1 Q. B., 136: 65 L. T., 733: 8 *Times* L. R., 136.)

1895, May 17. [69]
Kent C. C. and Sandgate L. B. Arbitration, In re. "Local Government Act, 1888," §§ 11 (3), 63, 87—When differences are to be determined by the arbitration of the Local Government Board, the Board must proceed under § 63, and they or their Arbitrator may be compelled to state a case under the "Arbitration Act, 1889"—The Board are only to proceed under § 87 where the differences are directed by the Act to be "determined" by them otherwise than by arbitration. (64 L. J., Q. B., 502: L. R., 2 Q. B., 43: 72 L. T. 725: 11 *Times* L. R., 421.)

1900, March 17. [70]
Knowles *v.* **Bolton Corporation.** "Public Health Act, 1875," § 180—This Section does not restrict the power of the Court to enlarge the time for making an award. (69 L. J., Q. B., 481: L. R., 2 Q. B., 253: 82 L. T., 229: 16 *Times* L. R., 283.)

1896, May 18. [71]
Portland A. D. C. and Tilley, In re. Proceedings to revoke a submission to arbitration commenced by originating summons are "matters of procedure and practice" within the "Judicature Act, 1894," § 1 (4); and any appeal from the Judge in Chambers must be to the Court of Appeal. (65 L. J., Q. B., 527: L. R., 2 Q. B., 98: 74 L. T., 703: 12 *Times* L. R., 427.)

1896, March 27. [72]
Sowerby U.D.C. and Mytholmroyd U.D.C., In re. "Local Government Act, 1888," §§ 59, (4, 6), 62 (2)—In case of differences between District Councils, a provision in the Order or Scheme under § 57 that such differences may be adjusted by the County Council is not another mode of adjustment within § 62 (2)—The mode of adjustment contemplated in § 59 (4) is adjustment by the Order or Scheme—Held that the arbitrator appointed by the Local Government Board had jurisdiction to deal with the matter in dispute. (74 L. T., 313: 12 *Times* L. R., 300.)

1896, July 21. [73]
Willesden L. B. and Wright, In re. "Public Health Act, 1875," §§ 150, 180, 257, 261: "Arbitration Act, 1889," §§ 12, 24—Notices under § 150 to pave, &c.—Expenses apportioned—The remedy of the Local Authority against a frontager in default is by summary proceedings under § 150 or in the County Court under § 261, according to the amount due, but in no case by proceedings under the "Arbitration Act,"§ 12. (45 L. J., Q. B., 567: L. R., 2 Q. B., 412: 75 L. T., 13: 12 *Times* L. R., 539.)

8. Artisans' Dwellings.

1897, Dec. 1. [74]
Dye *v.* **Patman.** "Housing of the Working Classes Act, 1890," § 21—Plaintiff owner of premises in an unhealthy area which was included in a Provisional Order—Buildings erected by defendants which interfered with plaintiff's ancient lights—Action for Injunction and damages—Provisional Order confirmed—Plaintiff's reversion not damaged—Held that an inquiry as to damages would be fruitless, but that plaintiff was entitled to recover his costs. (62 J. P., 135.)

1899, Dec. 21. [75]
Logsdon *v.* **Booth.** "Common Lodging-Houses Acts, 1851 and 1853"—Salvation Army Shelter—Charges made by scale—Inmates more dirty than ordinary inmates of ordinary common lodging-houses — House kept not for gain, but by way of charity—House held to be a common lodging-house, and requiring to be registered—*Booth* v. *Ferrett* [1890] overruled. (69 L. J., Q. B., 131: L. R., [1890] 1 Q. B., 401: 81 L. T., 602: 16 *Times* L. R., 129.)

1898, May 25. [76]
Logsdon *v.* **Holland.** "Common Lodging-Houses Act, 1851," § 11—When a case of infectious disease occurs in a common lodging-house the keeper of the house is responsible for due notice of the fact being given either by himself or his deputy; and he is liable for the default of his deputy in failing to give notice. (14 *Times* L. R., 449.)

1900, Feb. 2. [76*a*]
Logsdon *v.* **Trotter.** House kept for lodgers, but not so much for profit as for charity—Lodgers charged 6*d.* or 8*d.* a night, which included the use of a separate cubicle and a common dining-hall and sitting-room—The inmates were generally of the common lodging-house type, but drunken and disorderly men were not admitted—Held that as the inmates were persons of the poorer class likely to be in a dirty condition, and as they occupied at least part of the house in common, it was a common lodging-house within the "Common Lodging-Houses Acts, 1851 and 1853," and ought to have been registered. (69 L. J., Q. B., 312: L. R., 1 Q. B., 617: 82 L. T., 151: 16 *Times* L. R., 175.)

1895, Feb. 14. [77]
Reg *v.* **Mead (2).** "Public Health (London) Act, 1891," §§ 2, 4—A building used during the day for religious services, and at night as a refuge, but which contains no sleeping accommodation, is nevertheless a "house" within § 2 (1*e*)—The Superintendent of the philanthropic work of a Religious Association, owners of such a building, who gives orders to the caretaker as to the admission of destitute persons at night, may, in event of the building being overcrowded so as to be injurious to health, be summoned as the person by whose act, default, or sufferance a nuisance has arisen. (64 L. J., M. C., 169: 11 *Times* L. R., 242.)

1896, May 4. [78]
Reg. *v.* **Slade (2).** "Public Health (London) Act, 1891," § 2 (1*e*)—A notice directed to a person in charge of a night-shelter that "the premises were so overcrowded as to be injurious or dangerous to the health of the inmates;" and a summons and Order founded upon such notice are sufficient to convey to the recipient that the nuisance complained of is a nuisance within the Act—The temporary occupiers of a night-shelter are "inmates." (65 L. J., M. C., 108: 74 L. T., 656.)

1901, April 23. [79]
Robertson *v.* **King.** "Housing the Working Classes Act, 1890," §§ 29, 32 (2)—Summons against an owner for a Closing Order in respect of certain houses reported by the Medical Officer to be dangerous to health and unfit for habitation—Magistrate dismissed the summons on the ground that the

houses had been uninhabited for years, and the owner did not intend to let them again for habitation—Held that the Magistrate was wrong; and that it was the duty of the Local Authority to take proceedings whenever the facts were that a dwelling-house was unfit, &c., and that, whether it was inhabited or not was immaterial. (70 L. J., K. B., 630: L. R., 2 K. B., 265: 84 L. T., 842; 65 J. P., 453.)

1901, May 13. [80]
Weatheritt *v.* **Cantlay.** "Public Health (London) Act, 1891," § 94—A building let out in separate tenements as artisans' dwellings is not "a house . . . let in lodgings or occupied by more than one family" within this Section so as to require a Sanitary Authority to make By-Laws with respect to houses and parts of houses so let. (70 L. J., K. B., 799: L. R., 2 K. B., 285: 84 L. T., 768.)

9. Bankruptcy.

1894, March 8. [81]
Bourke *v.* **Nutt.** "Bankruptcy Act, 1883," § 32—This section is not retrospective; therefore a person adjudicated bankrupt before Dec. 31, 1883, and undischarged is not disqualified *e.g.* for a seat on a School Board. (63 L. J., Q. B., 497: L. R., 1 Q. B., 725: 70 L. T., 639: 10 *Times* L. R., 349.)

1900, April 25. [82]
Corrigan *v.* **Allison.** "Irish Local Government Act, 1898," which incorporates the English "Local Government Act, 1894," § 46 (1) (c): "Deeds of Arrangement Act, 1887"—A member of a Local Authority becomes disqualified if he makes a composition with his creditors by a deed registered under the latter Act (Irish). (64 J. P., 678.)

1895, Aug. 11. [83]
Ward *v.* **Radford.** "Local Government Act, 1894," § 46 (1)—Parish Council Election—When a partnership makes an arrangement with its creditors the individual partners become disqualified under the Act from being elected. (11 *Times* L. R., 587.)

12. Borough Fund.

1902, March 25. [84]
Att.-Gen. *v.* **Rickmansworth U. D. C.** "Borough Funds Act, 1872," § 4: "Local Authorities (Expenses) Act, 1887," § 3—An Urban Council cannot charge its District Rate with the expense of opposing a Local Bill not affecting their own duties, rights, or privileges without the consent of their ratepayers—§ 3 of the Act of 1887 is not intended to prevent the Court from intervening to restrain such expenses being charged to the Rate in cases where the sanction of the Local Government Board has not been applied for. (86 L. T., 521: 66 J. P., 410: 18 *Times* L. R., 481.)

1899, May 16. [85]
Att.-Gen. *v.* **Tynemouth Corporation.** "Municipal Corporations Act," 1882—Where a Borough Fund shows no surplus a Municipal Corporation cannot legally pay out of the Fund the costs incurred by the Chief Constable in opposing, by direction of the Council, appeals against the refusal of Justices to renew Public-House licences—*Quære*, whether if there be a surplus it can be legally applied to the payment of such costs. (68 L. J., Q. B., 752: L. R., A. C., 293: 80 L. T., 633: [*T.* v. *Att.-Gen.*] 15 *Times* L. R., 370.)

13. Borrowing.

1902, Jan. 15. [86]
Att.-Gen. *v.* **Liverpool, Mayor.** "Finance Act, 1899," § 8 (1, 2)—Issue of Corporation Stock—Held that under the circumstances of the case the Act of 1899 did not apply. (71 L. J., K. B., 195: L. R., 1 K. B., 411: 86 L. T., 300: 66 J. P., 391.)

1898, Oct. 26. [87]
Auckland R. D. C. and Spennymoor U. D. C., In re. "Local Government Act, 1894," § 70—Part of Parish M. transferred from a Rural District to an Urban District and constituted a separate Parish—A loan for water supply had been duly charged on the undivided parish of M.—Held that the Urban Council had become liable for the repayment of a proportionate part of the loan—Held, also, that the Court could only decide the question of liability, and had no jurisdiction to determine how the liability should be met. (*Loc. Gov. Chron.*, 1898, p. 1069.)

14. Boundary.

1899, Jan. 12. [88]
Buckinghamshire C. C. and Hertfordshire C. C., In re. "Local Government Act, 1888," § 62—Transfer from County B. to County H. under a Provisional Order duly made and confirmed of an area in which there were no county bridges and no main roads—Claim by county B. of a sum representing the capitalised value of the contributions of the transferred area towards bridges and roads of County B. in the past—Reference to arbitration—Claim admitted by Arbitrator and upheld by the Court—Principles of computation. (68 L. J., Q. B., 417: L. R., 1 Q. B., 515: 80 L. T., 85: 15 *Times* L. R., 138.)

1897, March 19. [89]
Glamorganshire C. C. *v.* **Breconshire C. C.** "Local Government Act, 1888," § 13—Turnpike road in Counties B. and G. in S. Wales

—Main road in one County formerly repaired as a turnpike road by the County Roads Board of another—Effect of transfer of powers of County Roads Board to County Council. (*Loc. Gov. Chron.*, 1897, p. 635.)

1902, April 29. [89a]
Godstone R. D. C. and Caterham U. D. C. Arbitration, In re. "Local Government Act, 1894," § 62—A parish in a Rural District was duly converted into an Urban District—Previously to this the Rates levied in the parish for highway purposes yielded more than was spent on such highways—Held that the loss to the Rural District Council of the surplus thus arising was a matter requiring adjustment under § 62. (66 J. P., 678. Affirmed on appeal, Feb. 27, 1903, 19 *Times* L. R., 290).

1900, Jan. 13. [90]
Jackson *v.* **Plympton St. Mary R. D. C.** Part of a Rural District Council's District added to a Municipal Borough by Provisional Order all liabilities attaching to the transferred area also being transferred to the Corporation—Held that in regard to an Action against the District Council for nuisance, pending at the time of the transfer, the liability passed both in respect of the nuisance, and of all the costs connected with the action. (64 J. P., 168: W. N., 1900, p. 15.)

1898, May 19. [91]
Llanwonno S. B. *v.* **Ystradyfodwg S. B.** "Local Government Act, 1888," §§ 57, 59: "Local Government Act, 1894," § 68—County Council Order transferring part of parish L. to parish Y.—Order provided for transfer of property, contracts, and liabilities—Board of parish L. claimed from Board of parish Y. contribution in respect of capital outlays—Matter referred to arbitration—Held, on case stated by Arbitrator, that there was subject-matter for adjustment under § 68 of the Act of 1894. (62 J. P., 644: 14 *Times* L. R., 432.)

1899, Feb. 20. [92]
Rochdale Union and Haslingden Union, In re. "Local Government Act, 1894," §§ 36 and 68—Transfer of an area from one Union to another—If the transfer results in one Union becoming involved in an increased expenditure and decreased income from Rates whilst the other Union benefits by decreased expenditure and increased income from Rates, such a condition of things justifies the impoverished Union demanding a financial adjustment under § 68. (68 L. J., Q. B., 531: L. R., 1 Q. B., 540: 80 L. T., 146: 15 *Times* L. R., 223.)

1902, Jan. 30. [93]
St. Thomas R. D. C. and Heavitree U. D. C., In re. Transfer of an area from one District to another by County Council Order under the "Local Government Act, 1888," § 57—Adjustment of Accounts made—Agreement between the Councils for payment of money, and the money paid—Subsequently the Rural Council, finding they had incurred a serious loss, asked the Urban Council to reopen the financial arrangements between them; this was done, and an Arbitrator called in to decide—Held that the adjustment claimed by the Rural Council was within § 68 of the Act of 1888, although the severed area had been formed into an Urban District of itself, and had not been transferred to an existing District: also that the claim to such adjustment had not been barred by the prior agreement between the Councils. (86 L. T., 153: 66 J. P., 597.)

15. Building-Line.

1895, July 22. [94]
Allen *v.* **London C. C.** "Metropolis Management Act, 1862," § 75 (1)—When an application is made for an order to demolish a building on the ground that it encroaches on the building-line prescribed by the Superintending Architect, the question whether the building is in that particular street of which the line has been so laid down is to be decided by the Architect's certificate, and not by the Magistrate hearing the application. (64 L. J., M. C., 228: L. R., 2 Q. B., 587: 73 L. T., 101: 11 *Times* L. R., 537.)

1893, June 14. [95]
Attorney-General *v.* **Hatch.** "Public Health Act, 1875," § 155—Front wall of house up to and including the first floor taken down: second floor shored up, but otherwise undisturbed: wall that was removed replaced by girders and brick piers so as to convert into a shop the rooms which had been exposed—Held that neither the house nor its front had been taken down within the meaning of the Section, and that the power to fix a building-line had not arisen. (62 L. J., Ch., 857: L. R., 3 Ch., 36: 69 L. T., 469: 9 *Times* L. R., 513.)

1893, Aug. 3. [96]
Attorney-General *v.* **Hooper.** Local Act authorising the Local Authority to order the removal of projecting signs attached to houses—Held that the Local Authority was not bound to give the owner of a sign an opportunity of being heard, but only to give him the prescribed notice to remove—*Quære* whether, if the owner had asked to be heard, the Local Authority could refuse to hear him—Injunction granted to restrain the owner from obstructing the Authority in removing the sign. (63 L. J., Ch., 18: L. R., 3 Ch., 483: 69 L. T., 340: 9 *Times* L. R., 632.) [Cited in *Robinson* v. *Sunderland* [1899].].

1899, Nov. 1. [97]
Coburg Hotel *v.* **London C. C.** "London Building Act, 1894," §§ 22, 200 (3)—A glass and

iron portico which projects beyond the general line of the street, and which is dovetailed into the main structure, is within § 22 if not erected with the consent of the County Council. (81 L. T., 450: 16 *Times* L. R., 9.)

1898, Aug. 10. [98]
Grand Junction Waterworks Co. *v.* **Hampton U. C.** (2)—"Waterworks Clauses Act, 1847," § 93: "Public Health (Buildings in Streets) Act, 1888," § 3—The above-named Act of 1888, is an "Act for improving the Sanitary Condition of Towns," within the above-named § 93—Therefore, if the Act of 1847 is incorporated by the Special Act of a Water Company, the Company is liable to be convicted under the Act of 1881 for encroaching on a building line, inasmuch as the effect of § 93 is to make the Company subject to such an Act as that of 1888. (67 L. J., Q. B., 903: 79 L. T., 176.)

1898, May 12. [99]
Kinnis *v.* **Graves.** "Public Health (Buildings in Streets) Act, 1888," § 3—Alleged encroachment on Building-Line—Summons—Justices equally divided—In such a case the Justices ought to adjourn the summons that it may be re-heard before a reconstituted Bench—But if they dismiss the summons a subsequent summons will not lie against the same defendant if the circumstances remain the same—As long as the dismissal of the first summons stands it exists as a decision by a competent tribunal, and a second Bench of Justices has no power to reopen the hearing of the first summons. (67 L. J., Q. B., 583: 78 L. T., 502.)

1895, July 16. [100]
Lavy *v.* **London C. C.** "Metropolis Management Act, 1862," § 75—The question whether a wall is a "building, structure, or erection" depends on its height and purpose—The fore-court of a house had been for many years bounded by a dwarf wall 3 ft. high—This pulled down and a wall 11 ft. high substituted, which was used as boundary and for advertisements—Held that the original wall was not a "building, &c.," and that so long as it existed the site was to be regarded as vacant land; but that the new wall was a "building, &c.," the demolition of which might be ordered by the Magistrate—Though a summons for infringing a building-line is taken out before the date of the Architect's certificate as to what was the building-line, the validity of an Order made after the issue of the certificate is not thereby affected. (64 L. J., M. C., 262: L. R., 2 Q. B., 577: 73 L. T., 106: 11 *Times* L. R., 525.)

1893, Jan. 14. [101]
Leyton L. B. *v.* **Causton.** "Public Health (Buildings in Streets) Act, 1888," § 3—The prohibition against bringing forward a house applies even though there is an adjoining house only on one side and not on both sides. (57 J. P., 135: 9 *Times* L. R., 180.)

1897, Nov. 2. [102]
London C. C. *v.* **Aylesbury Dairy Co.** "London Building Act, 1894," §§ 13, 14, 200—§ 14 does not apply to all the offences created by § 13; and where the external boundary of a fore-court is within the prescribed distance from the centre of a roadway, the Council has no power under § 14 to require the fore-court to be set back so that every part of the external boundary shall be at a distance from the centre of the roadway not less than the distance permitted by the Act. (67 L. J., Q. B., 24: L. R., [1898] 1 Q. B., 106: 77 L. T., 440.) [But see now "London Building Act, 1898," § 3.]

1892, May 6. [103]
London C. C. *v.* **Cross.** Building-Line—Computation of time. (W. N., 1892, p. 80: 8 *Times* L. R., 537.) [Effect of decision varied by subsequent legislation. See "London Building Act, 1894," § 166.]

1896, March 3. [104]
London C. C. *v.* **Pryor.** "Metropolis Management Act, 1862," § 75—Fore-court and back garden not part of site of old building pulled down—Court and garden made part of a new street, a building-line for which was prescribed—Abandonment by owner of building of right to rebuild on actual old site—The residue of court and garden cannot be treated as part of the curtilage of the old building within § 74, but must be deemed "vacant land" under § 75—Accordingly owner held not entitled to erect a new building to cover all the old site and the "vacant land" on either side, if by so doing he would encroach on the building-line newly prescribed—*Auckland* v. *Westminster* [1872] distinguished. (65 L. J., M. C., 89: L. R., 1 Q. B., 465: 74 L. T., 234: 12 *Times* L. R., 241.)

1886, April 3. [105]
Nathan *v.* **Metropolitan B. W.** "Metropolis Management Act, 1862"—In February, 1883, 4 houses commenced by a builder immediately adjacent to 10 old houses, but far in advance of their line—In June, 1883, line of the 10 old houses prescribed as the building-line—Soon afterwards the man who had commenced the 4 houses absconded—In 1884 M. obtained a conveyance to himself of the 4 sites and unfinished houses, and he contracted with a builder to finish them, which the builder did—In July, 1885, proceedings taken under § 75 for the alleged offence of unlawfully building in advance of the prescribed line—Defence that the offence had been committed 2 years previously, and that the summons was too late under the "Summary Jurisdiction Act, 1848," § 11—Held, however, that the offence was a continuing

one, and that the 6 months' limitation did not apply—Magistrate's order that the buildings must be pulled down affirmed. (L. R., 1 Q. B., 230*n*.)

1900, Aug. 4. [106]
Reg. *v.* Eastbourne Corporation. "Public Health (Buildings in Streets) Act, 1888," § 3—A prerogative writ of *Mandamus* will not be granted to compel a Local Authority to approve plans of a proposed building when the Authority has refused to approve on the ground that the building would contravene the Act by being brought forward beyond the front main wall of the building on one side thereof in the same street. (83 L. T., 338: 64 J. P., 724: 16 *Times* L. R., 546.)

1895, April 24. [107]
Reg. *v.* Fulwood L. B. "Public Health (Buildings in Streets) Act, 1888," § 3—R., an owner of land, built 4 villas, the fronts of which were 62 ft. back from the road—L. purchased a plot adjacent to one of these villas, and proposed to build a villa, but only 27 ft. back from the road—On account of this reduced distance proposed by L., the Local Authority refused to pass his plans, alleging that he was going to encroach on a recognised building-line—Held that his proposed building was not in the same street as R.'s houses within § 3 of the Act of 1888—*Mandamus* to Local Authority to pass the plans, granted. (72 L. T., 592.)

1895, May 14. [108]
Schulze *v.* Galashiels Corporation. "Police and Improvement (Scotland) Act, 1862," § 162: "General Turnpike (Scotland) Act, 1831," § 91—"Regular line of the street" held to mean the line of the buildings, not the line indicating the dedicated part of the highway—Question as to restriction of height of buildings laid down in the Act of 1831. (L. R., A. C., 666: 60 J. P., 277.)

1899, Oct. 31. [109]
Scott *v.* Carritt. "London Building Act, 1894," § 22—Two adjoining houses standing back more than 50 ft. from a road had each a long one-storey building extending forwards to the road—One of these buildings was erected contrary to the provisions of an old Local Act: the other by licence under the "Metropolis Management Amendment Act, 1862," § 76, but under conditions that it was not to be altered or raised without the consent of the Local Authority—The owner proposed to pull down the house and rebuild, without the consent of the County Council, three-storey buildings upon the fore-courts, which buildings would project beyond the general building line—Held that he could not do this without the consent of the Council. (82 L. T., 67: 16 *Times* L. R., 134.)

1894, March 2. [110]
Wendon *v.* London C. C. "Metropolis Management Act, 1862," § 75—Plans deposited by A. for a shop adjoining a new street, and footings put in for the external walls on two sides of the shop, one of which faced the street, and on this a 12 ft. wall was raised—No other buildings then on either side of street—Two years after, A. built a row of buildings on same side of street, but 10 ft. further back—He then leased the site of the shop to B., who went on building the shop without the consent of the Council—Two months later the Council's Architect prescribed as the building-line not the shop, but the buildings 10 ft. behind—Held that what A. had put up was not a building, &c., within § 75, and that B.'s acts amounted to the first erection of a building, and that the order to demolish it was rightly made—*Semble* that § 75 does not prevent the completion of a building existing in an unfinished state when the building-line is prescribed. (63 L. J., M. C., 117: L. R., 1 Q. B., 812: 70 L. T., 440: 10 *Times* L. R., 329.)

16. "Buildings," Definition of.

1898, Dec. 7. [111]
Clifford *v.* Holt. A greenhouse is a "building" within the "Prescription Act, 1832," § 3, and therefore if it has ancient lights may be protected by Injunction against interference with the access of light. (68 L. J., Ch., 332: L. R., [1899] 1 Ch., 698: 80 L. T., 49: 15 *Times* L. R., 86.)

1893, May 8. [112]
Coole *v.* Lovegrove. "Metropolitan Building Act, 1855," §§ 6, 38—A wood shed erected by a Canal Company on one of their wharves for the use of their tenants is not a building "used for the purposes of the canal" so as to exempt the Company before building it, from the obligation of giving notice to the District Surveyor imposed by § 38. (62 L. J., M. C., 153: L. R., 2 Q. B., 44: 69 L. T., 19: 57 J. P., 324: 9 *Times* L. R., 455.) [Distinguished in *Elliott* v. *L. C. C.* [1899].]

1896, May 13. [113]
Drury *v.* Army and Navy Stores. "London Building Act, 1894"—A wall may be a party wall as to a portion of its height, and not a party wall for the rest of its height—§ 75 of the above Act does not make it a party wall above the line where it ceases to divide buildings. (65 L. J., M. C., 169: L. R., 2 Q. B., 27: 74 L. T., 621: 12 *Times* L. R., 404.)

1899, June 12. [114]
Elliott *v.* London C. C. "London Building Act, 1894"—Wooden office erected by coal merchants in a railway yard, its user by the merchants facilitating the clearing of the

railway tracks—Held that the structure was "used in connection with the traffic of the railway" within § 86, and therefore that it did not require the licence of the Council under § 84. (68 L. J., Q. B., 837: L. R., 2 Q. B., 277: 81 L. T., 155: 15 *Times* L. R., 412.)

1893, Feb. 2. [115]
Ellis *v.* **Plumstead B. W.** "Metropolis Management Act, 1862," §§ 75, 98—A very massive boundary wall built out in front of the general building line held a "building" which might be ordered to be demolished, "it being out of all proportion to what a mere boundary wall ought to be." (68 L. T., 291: 57 J. P., 359.)

1893, June 7. [116]
Foster *v.* **Fraser.** A hoarding erected for advertising purposes held not to be a "building" within a covenant against erecting any building. (63 L. J., Ch., 91: L. R., 3 Ch., 158: 9 *Times* L. R., 502.)

1893, April 21: 1894, Jan. 31. [117]
Johnston *v.* **Mayfair Property Co.** "Metropolitan Building Act, 1855," §§ 3, 88—Dispute on a question of fact as to whether a certain wall was or was not a party wall—What constitutes a "party wall." (W. N., 1893, p. 73: L. R., [1894] 1 Ch., 508.)

1900, Feb. 16. [118]
Kimber *v.* **Admans.** A covenant entered into by several purchasers of plots of land, that not more than one "house" should be erected on any one plot, is not infringed by the erection on one plot of a building containing separate sets of flats on each floor. (69 L. J., Ch., 296: L. R., 1 Ch., 412: 82 L. T., 136: 16 *Times* L. R., 207.)

1894, July 5. [119]
Wood *v.* **Cooper.** Lessee of a building plot covenanted not to erect any building except a stable, &c., or to do anything that might be an annoyance to any tenant of lessor—House erected on adjoining plot, 20 ft. from lessee's boundary and facing it—Whereupon lessee put up trellis-work 12 ft. high on the top of the boundary wall, which was 8 ft. high—Held that on the construction of the deed "building" included any erection, and that therefore the screen was a breach of the covenant—Also that as the screen interfered with the adjoining tenant's pleasurable enjoyment of his house, its erection was a breach of the covenant against annoyance. (63 L. J., Ch., 845: L. R., 3 Ch., 671: 43 W. R., 201.)

17. Burials.

1897, Jan. 11. [120]
Reg. *v.* **Keighley Overseers.** "Local Government Act, 1888," § 54: "Local Government Act, 1894," § 84—An alteration duly made in the boundaries of a parish under a Burial Board does not alter the area of the Board's jurisdiction in the absence of provisions to that effect in the Order which makes the alteration—In such a case of alteration the provisions of § 13 of the "Burial Act, 1855," authorising the levy of a separate Rate or of an addition to the Poor Rate where a burial area has ceased to be coextensive with a parish, come into force. (*Loc. Gov. Chron.*, 1897, p. 47.)

1901, May 3. [121]
Rex *v.* **Connah's Quay Overseers.** "Local Government Act, 1894," § 62—An Urban Council which has taken over the functions of a Burial Board cannot charge the expenses of executing the "Burial Acts" to the General District Rate—The money required must be raised by precepts to the Overseers in the same way as a Burial Board has to apply to Overseers for money. (70 L. J., K. B., 651: L. R., 2 K. B., 174: 84 L. T., 601.)

1898, June 16. [122]
Ward *v.* **Portsmouth Corporation.** "Burial Act, 1852," § 26: "Burial Act, 1853," § 6—Purchase of land for burial-ground—Vendor held entitled to damages on default of Corporation under special circumstances to complete the purchase. (67 L. J., Ch., 489: L. R., 2 Ch., 191: 78 L. T., 771: 14 *Times* L. R., 472.)

1892, Jan. 15. [123]
Wood *v.* **Headingley-cum-Burley Burial B.** "Burial Act, 1852," § 32: "Burials Act, 1880"—It is an ecclesiastical offence for a Burial Board to permit, except in cases coming under the Act of 1880, any person to read the Burial Service who is not the Incumbent of the parish to which deceased belonged, or some clergyman authorised by such Incumbent. (L. R., 1 Q. B., 713: 40 W. R., 390: 8 *Times* L. R., 217.)

18. By-Laws.

(1.) BUILDING.

1897, March 23. [124]
Aërated Bread Co. *v.* **Shepherd.** "London Building Act, 1894," § 64 (18)—Flue built up on three sides with new bricks, but for the fourth side a recently rebuilt party wall was made use of—Held that the flue was not surrounded on all sides with "new brickwork" within the meaning of the Act. (W. N., 1897, p. 33 (9): 13 *Times* L. R., 311.)

1895, May 22. [125]
Badley *v.* **Cuckfield R. D. C.** By-Law requiring walls of new building to be of "good bricks, stone, or other hard and incombustible materials"—Held that the latter

words could be read as applicable to iron buildings, but that a building with walls made up of a wooden framework lined with wood and felt inside, though faced with galvanised iron outside, was of combustible materials, and therefore contrary to the By-Law. (64 L. J., Q. B., 571: 72 L. T., 775.)

1902, Feb. 25. [125a]
Baker *v.* **Moss.** Land bought at auction after being described as a "capital building site . . . ripe for immediate development"—On proof that the land had been filled up with refuse from roads and dustbins, and under the Building By-Laws of the London County Council could not be built upon, purchaser held entitled to repudiate his purchase as misdescribed. (66 J. P., 360.)

1902, March 26. [126]
Blackpool Corporation *v.* **Johnson.** "Public Health (Buildings in Streets) Act, 1888," § 3—A house erected in contravention of this Section passed into the hands of the respondent on whom notice of the contravention was subsequently served—Held that he had not been guilty of an offence against the Act. (71 L. J., K. B., 485: L. R., 1 K. B., 646: 87 L. T., 28: 18 *Times* L. R., 494.)

1900, Jan. 26. [127]
Briarley *v.* **Harper.** "Public Health Acts"—Question whether a building which had originally been of the "warehouse class" had become a "domestic building" by the conversion of a part of it into stables—Plan disapproved of, but respondent nevertheless carried it out—Held that the question was one of fact rather than law, and that Justices having found that the building had not as a whole become "domestic," the Court would not disturb their decision. (*Loc. Gov. Chron.*, 1900, p. 321.)

1898, Jan. 25. [128]
Burnley Co-operative Soc. *v.* **Pickles.** Local Acts—Restrictions as to building over a river so as to obtain a minimum clearance in any archway—Held that the building which the plaintiffs had erected was a breach of the statutory restrictions. (77 L. T., 803: 62 J. P., 260.)

1899, June 5. [129]
Carritt *v.* **Godson.** "London Building Act, 1894," § 74 (2)—A fully licensed public-house is not a building used partly for trade and partly as a dwelling-house within this Section, so that the means of approach to the residential part need not be constructed of fire-resisting materials as required by that Section. (68 L. J., Q. B., 799: L. R., 2 Q. B., 193: 80 L. T., 771: 15 *Times* L. R., 400.)

1901, May 8. [130]
Collins *v.* **Hornsey U. C.** "Towns Improvement Clauses Act, 1847," § 64—Building estate laid out by owner who proposed to call one street "M. Avenue," and put up a board to that effect—Local Authority decided to name the road "C. Avenue," and affixed a board with that name to one of landowner's houses—Name obliterated by landowner—On summons under § 64 he was convicted—On appeal by Case stated the Court held that the Local Authority had the right to name an unnamed street—That on proceedings against him the landowner was not entitled to object that the Authority's name was not the proper name—Conviction upheld—*Semble*, that § 45 does not give the Local Authority the right to alter the well-known name of an old street. (70 L. J., K. B., 802: L. R., 2 K. B., 180: 84 L. T., 839: 17 *Times* L. R., 487.)

1896, May 19. [131]
Cook *v.* **Hainsworth.** Local Act—A By-Law giving power to a Corporation to approve or disapprove of proposed new buildings is not unreasonable where by the special legislation under which it is made there is a power of appeal to Quarter Sessions given to the building owner against a decision of the Corporation. (65 L. J., M. C., 190: L. R., 2 Q. B., 85: 75 L. T., 51: 12 *Times* L. R., 432.)

1901, May 4. [132]
Corbett *v.* **Badger.** "London Building Act, 1894," §§ 154, 157—When default is made by a builder in the payment of fees due to a District Surveyor, they may be recovered from the owner within 6 calendar months from the delivery to him of a proper bill specifying the amount of the fees: until that delivery the "matter of complaint" within § 11 of the "Summary Jurisdiction Act, 1848," does not arise. (70 L. J., K. B., 640: L. R., 2 K. B., 278: 83 L. T., 602: 17 *Times* L. R., 474.)

1901, July 8. [133]
Dicksee *v.* **Hoskins.** "London Building Act, 1894," § 74 (2)—Special Case stated—Magistrate found that basement and ground floor of a building were intended for the trade of a beer-house and upper floors as a dwelling-house—Objections by District Surveyor overruled by Magistrate on the strength of *Carritt* v. *Godson* [1899]—Held that the question whether the building was within § 74 (2) which had been decided in the affirmative, was concluded by the finding of fact at bar; and this was binding on the Court and could not be reviewed. (70 L. J., K. B., 851: L. R., 2 K. B., 660: 85 L. T., 205: 17 *Times* L. R., 660.)

1899, May 5. [134]
Fulford *v.* **Blatchford.** "Public Health Act, 1875," §§ 158, 159; "Public Health Act Amendment Act, 1890," § 33—Plans passed

of new building not intended as a dwelling-house—4 years afterwards plans deposited for alteration of building so as to be used as dwelling-house—These plans neither approved nor disapproved—Building used as a dwelling—Magistrate held that as the 1898 plans had not been disapproved of, defendant was within his rights in allowing the building to be used—Held that the Magistrate was wrong, and that an offence had been committed against § 33 of the Act of 1890. (80 L. T., 627.)

1898, Nov. 16. [135]
Hobbs, Hart & Co. *v.* Grover. "London Building Act, 1894," § 90—A party wall notice given by a building owner to an adjoining owner ought to be so clear and intelligible as to enable the adjoining owner to see what counter-notice he should give, if minded to give one. (68 L. J., Ch., 84: L. R., [1899] 1 Ch., 11: 79 L. T., 454.)

1901, Feb. 16. [136]
Hull *v.* L. C. C. "London Building Act, 1894," §§ 73, 200 (11, *j.*)—A prohibition applicable to an architectural projection beyond the building-line does not apply to an advertisement sign so projecting—§ 73 (8) applies only to projections *ejusdem generis* with the various projections from buildings specifically dealt with in the rest of the Section—Conviction quashed on the ground that the proceedings were out of time as the offence was not a continuing offence. (70 L. J., K. B., 364: L. R., 1 Q. B., 580: 84 L. T., 160: 17 *Times* L. R., 270.)

1892, Nov. 17. [137]
James *v.* Masters. "Public Health Act, 1875," § 157—A By-Law requiring person intending to build to deposit plans is broken if any substantial alteration is made in the plans—The fact that the alterations themselves break no By-Law, and that there is no By-Law forbidding alterations in deposited plans is immaterial. (L. R., [1893] 1 Q. B., 355: 67 L. T., 855: 57 J. P., 167.)

1894, July 16. [138]
London C. C. *v.* Humphreys. "Metropolis Management Act, 1882," § 13—Corrugated iron bungalow erected on a piece of ground for show and sale, but not used or occupied—Held not a "wooden structure or erection of a movable or temporary character," and therefore not to require a licence. (63 L. J., M. C., 215: L. R., 2 Q. B., 755: 71 L. T., 201: 10 *Times* L. R., 594.)

1896, June 12. [139]
London C. C. *v.* Savoy Hotel. "London Building Act, 1894," § 128—Sky-sign—Board fixed to roof containing inscription made up of detached letters in frames—Held a sky-sign, though it was also a parapet. (60 J. P., 457: 12 *Times* L. R., 193, 468.)

1900, April 2. [140]
London C. C. *v.* Wandsworth and Putney Gas Co. "London Building Acts, 1894, 1898"—A Gas Company erecting buildings on lands scheduled in their private Act are subject to the Building Acts as regards the position of new buildings with reference to streets. (82 L. T., 562: 64 J. P., 500.)

1894, Aug. 3. [141]
London C. C. *v.* Worley. "Metropolis Management Act, 1862," §§ 85, 107—Buildings were completed to a prohibited height in Feb. 1893—Notice in Dec. 1893, to owner, that he would be held liable to penalties if the building was left at the prohibited height—Summons for penalties in March, 1894—Held that the continuance at a prohibited height of a building already erected was a continuing offence, and that complaint had been duly made within 6 months of the commission or discovery of the offence. (63 L. J., M. C., 218: L. R., 2 Q. B., 826: 71 L. T., 487: 10 *Times* L. R., 652.) [§ 85 repealed and further provision made by the "London Building Act, 1894," § 49.]

1896, Dec. 11. [142]
Mantle *v.* Jordan. "Local Government Act, 1888," § 16—A By-Law directed against the use of bad language, &c., within reach of a street or public place to the annoyance of any person in such street or place, is neither repugnant nor *ultra vires;* and any one using such language in a room opening into a street, the door being open, is liable—Justices ought to have convicted. (66 L. J., Q. B., 224: L. R., [1897] 1 Q. B., 248: 75 L. T., 552.)

1901, Jan. 16. [143]
Moses *v.* Marsland. "London Building Act, 1894," § 5 (27)—A home extending to less than 50,000 cubic feet provided for the use of infirm and defective children attending school in the neighbourhood held not a "public building" within the Act—The meaning of the words "hospital" and building used for a "public purpose" considered. (70 L. J., Q. B., 261: L. R., 1 Q. B., 668: 83 L. T., 740: 17 *Times* L. R., 190.)

1898, May 9. [144]
Paynter *v.* Watson. "London Building Act, 1894," § 43—The requirement that when an old domestic building is pulled down it may be rebuilt if wished as before, provided plans of the old building are submitted and certified by the Surveyor as correct, means that the plans to be certified are not only ground plans, but also plans showing sections and elevations, and the areas of the several floors. (67 L. J., Q. B., 640: L. R., 2 Q. B., 31: 14 *Times* L. R., 397.)

1897, Oct. 28. [145]
Reg. *v.* **Cluer.** Wooden structure erected and continued with Licence—Liability to Penalties—A liability under the "Metropolitan Building Act, 1882," § 13, which existed when the "London Building Act, 1894," came into operation, is saved by § 215 of the latter Act; but proceedings for penalties which have been delayed for 6 full months after the Act of 1894 came into operation cannot be taken because of the prohibition in the "Summary Jurisdiction Act, 1848," § 11. (67 L. J., Q. B., 36: 77 L. T., 439.)

1896, July 20. [146]
Reg. *v.* **Tynemouth R. D. C.** "Public Health Act, 1875," § 157—Rural D. C. invested with Urban powers to make Building By-Laws—Plans for laying out an estate duly deposited and not contravening any By-Law—Council held not entitled to reject plans on the ground that they did not disclose a complete system of sewerage (including outfall) for the estate—*Mandamus* will issue to Council to enforce passing of plans if approval is withheld on that ground. (65 L. J., Q. B., 545: L. R., 2 Q. B., 451: 75 L. T., 86: 12 *Times* L. R., 536.)

1901, Oct. 25. [147]
Rex *v.* **West Hartlepool Mayor.** Plans submitted for new buildings—Plans disapproved of by Corporation on the ground that the buildings would interfere with a public highway—*Mandamus* to Corporation to approve the plans refused, as the Corporation were guardians of the highways, and ought not to be compelled to sanction buildings which in their honest opinion would interfere with one of their highways. (18 *Times* L. R., 1.)

1901, May 7. [148]
St. James's Hall Co. *v.* **London C. C.** "Metropolis Management and Building Act, 1878," § 11—Where the owner of a theatre or public hall licensed at the passing of this Act has been called upon to make, and has made, structural alterations to avoid danger from fire, the County Council cannot serve a second notice under the Section requiring further works not rendered necessary by any new works done by the owner. (70 L. J., K. B., 610: L. R., 2 K. B., 250: 84 L. T., 568: 17 *Times* L. R., 483.)

1899, June 13. [149]
St. Margaret's and St. John's Vestry *v.* **Hoskins.** A Volunteer Drill Hall is not exempt from the sanitary provisions of the "Metropolis Management Act, 1855," on the ground that it is occupied solely for Crown purposes. (68 L. J., Q. B., 840: 15 *Times* L. R., 414: [*Westminster* v. *H.*] L. R., 2 Q. B., 474.)

1897, April 5. [150]
Smith *v.* **Chorley D. C.** No action will lie against a Local Authority for a *Mandamus* to compel them to approve building plans submitted in pursuance of their By-Laws, which plans the Authority, in the *bonâ fide* exercise of their powers, have already disapproved of on the ground that they are not in conformity with the By-Laws. (66 L. J., Q. B., 427: L. R., 1 Q. B., 678: 76 L. T., 637: 13 *Times* L. R., 327.)

1893, Feb. 1. [151]
Smith *v.* **Legg.** "Metropolitan Building Act, 1855"—Building completed without notices to the Surveyor—Held that as the building was completed, § 105 and §§ 45, 46 were not available. (L. R., 1 Q. B., 398: 68 L. T., 347: 57 J. P., 295: 9 *Times* L. R., 231.) [These Sections repealed and further provision made by the "London Building Act, 1894," §§ 151–153, 193.]

1901, Feb. 7. [152]
South Shields, Mayor *v.* **Wilson.** "Local Government Act, 1858," § 34 [Repealed but re-enacted]—Wooden structure 20 ft. long and 12 ft. high, erected on enclosed land an acre in extent and used as a stable, held to be a "building" within a building By-Law. (84 L. T., 267: 65 J. P., 294: 17 *Times* L. R., 247.)

1901, Jan. 25. [153]
Southend-on-Sea Mayor *v.* **Archer.** "Public Health Act, 1875," § 157—Movable wooden structures sheltering a weighing-machine and attendant, and the vendor of light refreshments, with no foundations, nor sanitary arrangements, nor provision for lighting or warming, and locked up at night, held not to be "new buildings." (70 L. J., K. B., 328: 84 L. T., 264: 65 J. P., 292: 17 *Times* L. R., 215.)

1895, Oct. 26. [154]
Tanner *v.* **Oldman.** "London Building Act, 1894," § 212—The exemption in favour of buildings to be carried out under a contract entered into before the passing of the Act, applies not merely to buildings to be erected under a contract according to definite plans, but also to buildings to be erected under an agreement for the development of a building estate, the complete performance of which may extend over a period of years. (L. R., [1896] 1 Q. B., 60: 73 L. T., 404: [*T.* v. *Oldham*] 12 *Times* L. R., 13.)

1901, Nov. 19. [154a]
Tylecote *v.* **Morton.** "Public Health Act, 1875," §§ 157, 158—Brick-kiln erected in connection with a brick-field held not a "building" within the Building By-Laws of a Corporation; but exempt under the

words of exemption, "except . . . in connection with any mine, or intended to be used exclusively for the working of such mine." [The Magistrate had found a certain state of facts and the Supreme Court refused to interfere with the finding, but doubted the propriety of it, and also of their own decision arising out of it.] (66 J. P., 136.)

1897, Jan. 15. [155]
Venner *v.* **Mc Donnell.** "London Building Act, 1894," §§ 78, 145—Agricultural Hall, Islington—A temporary seating in a completed building is not a "structure or work" within the Act, and the notice required generally by § 145 need not be given in respect of it—The question whether an erection is within the meaning of any particular Section depends on the facts and the enactments sought to be applied to each particular case. (66 L. J., Q. B., 273: L. R., 1 Q. B., 421: 76 L. T., 153: 13 *Times* L. R., 154.)

1894, Jan. 20. [156]
Wallen *v.* **Lister.** "Metropolitan Building Act, 1855," §§ 31, 45–47—Non-compliance by builder with District Surveyor's requisition—Jurisdiction of Magistrate to order compliance. (63 L. J., M. C., 51: L. R., 1 Q. B., 312: 70 L. T., 348: 10 *Times* L. R., 209.) [§§ 45, 46 repealed and further provisions made by "London Building Act, 1894," §§ 151, 152.]

1899, Dec. 18. [157]
Welsh *v.* **West Ham Corporation.** Where a person cannot comply with a notice to remedy a breach of a Building By-Law without committing a trespass, he cannot be convicted for having failed to comply with the By-Law—What is a "continuing offence." (69 L. J., Q. B., 114: L. R., [1900] 1 Q. B., 324: 82 L. T., 262: 16 *Times* L. R., 114.)

1901, Dec. 16. [158]
Westminster City Council *v.* **London C. C.** "London Government Act, 1899," § 5 (2), and sched.—The duty of licensing temporary wooden structures to be erected on occasions of public ceremonies has been transferred by the above Act from the London County Council to each of the Metropolitan Boroughs created by the Act. (71 L. J., K. B., 244: L. R., [1902] 1 K. B., 326: 86 L. T., 53: 66 J. P., 199: 18 *Times* L. R., 187.)

1899, Jan. 20. [159]
Woodroffe *v.* **Spencer.** "London Building Act, 1894," § 77—Prohibition against uniting 2 buildings unless they are wholly in one occupation, or constructed or adapted to be so—Where communication exists between 2 buildings by an opening on 1 floor through the wall dividing them, an opening cut through on another floor does not "unite" them within the meaning of the Section, even though the first opening has been illegally made. (*Loc. Gov. Chron.*, 1899, p. 222.)

1899, Jan. 13. [160]
Yabbicom *v.* **King.** Local Act—An Urban Authority cannot dispense with By-Laws which it has itself made under the "Public Health Act, 1875"—It cannot, therefore, effectually approve plans of a new building which will contravene its own By-Laws—The Local Act annulled previous By-Laws, subject to the proviso that plans approved previously but not acted upon, would hold good for 2 years—Held that this proviso only applied to plans effectually approved, and not to plans which would contravene By-Laws. (68 L. J., Q. B., 560: L. R., 1 Q. B., 444: 80 L. T. 159.)

(2.) MARKET.

1899, July 27. [161]
Scott *v.* **Glasgow Town Council.** "Markets and Fairs Clauses Act, 1847," § 42: "Diseases of Animals Act, 1894," § 32 (2)—By-Law that sale rings at a public market should not be used for private sales or for sales from which any class of the public are excluded from bidding—By-Law held good. (68 L. J., P. C., 98: L. R., A. C., 470: 81 L. T., 302: 15 *Times* L. R., 498.)

(3.) VARIOUS.

1901, Nov. 22. [162]
Brabham *v.* **Wookey.** Local Act—Penalty for using profane language—Defendant overheard using indecent language inside his own house, the door being open—Conviction held good. (18 *Times* L. R., 99.)

1896, April 28 and June 9. [163]
Burnett *v.* **Berry.** "Municipal Corporations Act, 1882." § 23—Borough By-Law prohibiting betting in a public place, being aimed at persons congregating on a pavement—Held good; but such a By-Law does not apply to a person happening to be in the street and casually making a bet—The power to make By-Laws under § 23 is not wholly restricted to offences for which a summary method of punishment already exists—No appeal lies from the Q. B. D. remitting a case to Justices to convict a person charged with breach of a By-Law—*Strickland* v. *Hayes* [1896] commented on. (65 L. J., M. C., 119: L. R., 1 Q. B., 641: 74 L. T., 494: 12 *Times* L. R., 362 and 464.)

1896, Dec. 12. [164]
Collman *v.* **Mills.** "Slaughter-houses, &c. (Metropolis) Act, 1874," § 4—By-Laws under, forbidding (*inter alia*) animals to be slaughtered within sight of other animals—By-Laws held not repugnant to the Common Law, and master liable for breach by servant, though the latter acted without the knowledge of, and contrary to the express order of, master. (66 L. J., Q. B., 170: L. R., [1897] 1 Q. B., 396: 75 L. T., 590: 13 *Times* L. R., 122.)

1901, Nov. 18. [165]
Gentel *v.* **Rapps.** "Tramways Act, 1870," § 46—By-Law made by Local Authority prohibiting the use of profane language in or on a tramway carriage held not *ultra vires*, and that Magistrates ought to have convicted. (71 L. J., K. B., 105: L. R., [1902] 1 K. B., 160: 85 L. T., 683: 66 J. P., 117: 18 *Times* L. R., 72.)

1900, Nov. 15. [166]
Hickey *v.* **Hay.** "Local Government Act, 1888," § 16—A County Council By-Law prohibiting betting in streets is not invalid because it is made applicable to Rural as well as to Urban Districts. (65 J. P., 232: 17 *Times* L. R. 52.)

1894, May 9. [167]
Innes *v.* **Newman.** By-Law against making noises in a street to the annoyance of inhabitants—On summons for breach of By-Law by crying newspapers it is not necessary to prove that more than one inhabitant has in fact been annoyed. (63 L. J., M. C., 198: L. R., 2 Q. B., 292: 70 L. T., 689: 10 *Times* L. R., 479.)

1898, March 3. [168]
Jones *v.* **Walters.** "Municipal Corporations Act, 1882," § 23: "Local Government Act, 1888," § 16—County Council By-Law prohibiting betting in any "public place," and including under that term any common not already regulated by Act of Parliament, and any "place or land to which the public have access for the time being"—By-Law held valid—*Burnett v. Berry* [1896] followed. (78 L. T., 167: 14 *Times* L. R., 265.)

1899, Jan. 27. [169]
Kitson *v.* **Ashe.** Local Act empowering a Municipal Corporation to make By-Laws against betting—Use by appellant of an unenclosed piece of land without owner's permission—No actual nuisance, annoyance, or obstruction to the public—Held (1) that the By-Law was valid; and (2) that as the ground was in fact used by the public it was a "place of public resort" within the By-Law—Conviction affirmed. (68 L. J., Q. B., 286; L. R., 1 Q. B., 425: 80 L. T., 323: 15 *Times* L. R., 172.)

1898, May 14. [170]
Kruse *v.* **Johnson.** By-Law as to music or singing—When a By-Law is made by a Public representative Body the Court ought to be slow to hold that it is void for unreasonableness; it should be supported unless manifestly partial and unequal in its operation between different classes, or unjust, or made in bad faith, or clearly involving unjustifiable interference with the liberty of those liable to it—By-Law prohibiting playing music or singing in any public place or highway within 50 yds. of a dwelling-house after request by a constable or an inmate or servant to desist, held valid. (67 L. J., Q. B., 782: L. R., 2 Q. B., 91: 78 L. T., 647: 14 *Times* L. R., 416 and 328.)—[Referred to in *Thomas* v. *Sutters* [1899].]

1891, Nov. 21. [171]
Nash *v.* **Finlay.** "Municipal Corporations Act, 1882," § 23—By-Law providing that "no person shall wilfully annoy passengers in the public streets"—Held invalid for want of certainty, because it did not give sufficient information as to what was intended to be forbidden. (85 L. T., 682: 66 J. P., 183: 18 *Times* L. R., 92.)

1902, Feb. 28. [172]
Parker *v.* **Bournemouth, Mayor.** By-Law prohibiting sale of articles on beach or foreshore except the vendor had entered into an agreement with the Corporation—By-Law held unreasonable and bad, on the ground that it gave the Corporation power to make any agreement they chose without reference to the question of the reasonableness or unreasonableness of such agreement; and that it reserved to them a right to refuse to give a licence to any particular person. (86 L. T., 449: 66 J. P., 440; 18 *Times* L. R., 372.)

1888, Nov. 1. [173]
Pearson *v.* **Whitfield.** By-Law against games in streets—P. was charged with playing football on open ground with footpaths crossing it not fenced off—Defence, that these footpaths were not "streets," and that P. and others, sons of freemen, were entitled as of right to play on this open space—Justices overruled the claim and convicted the appellant and others—Held that the Justices were right. (52 J. P., 708.)

1900, Jan. 27. [174]
Southend-on-Sea *v.* **Davis.** Local Act—By-Law against steam organs being used anywhere within the borough, but with a proviso exempting the whistles of locomotive engines—Held good. (16 *Times* L. R., 167.)

1896, Feb. 12. [175]
Strickland *v.* **Hayes.** "Towns Police Clauses Act, 1847," § 28: "Public Health Act, 1875," §§ 171, 187: "Municipal Corporations Act, 1882," § 23: "Local Government Act, 1888," § 16—By-Law that "No person shall in any street or public place, or on land adjacent thereto, sing or recite any profane or obscene song or ballad, or use any profane or obscene language" held too wide, and By-Law bad—"On land adjacent" imposed a prohibition beyond what was necessary for the better government of the county; and the reference to bad language should have been guarded by the words, "to the annoyance of the public"—Held further that such By-Laws in a county not having relation to nuisances do not require the confirmation of

the Local Government Board; the approval of a Secretary of State suffices. (65 L. J., M. C., 55: L. R., [1896] 1 Q. B., 290: 73 L. T., 137: 12 *Times* L. R., 199.)

1899, Nov. 1. [176]
Thomas *v.* **Sutters.** "Municipal Corporations Act, 1882," § 23: "Local Government Act, 1888," § 16: "Metropolitan Streets Act, 1867," § 23—By-Law prohibiting betting in a street or other public place held reasonable and therefore valid—*White* v. *Morley* [1899] and *Burnett* v. *Berry* [1896] approved; *Strickland* v. *Hayes* [1896] and *Calder and Hebble* v. *Pilling* [1845] distinguished. (69 L. J., Ch., 27; L. R., [1900] 1 Ch., 10: 81 L. T., 469: 16 *Times* L. R., 7.)

1895, Nov. 16. [177]
Toronto Corporation *v.* **Virgo.** Canadian Act—A statutory power conferred on a Municipal Corporation to make By-Laws for regulating and governing a trade does not, in the absence of express powers of prohibition, authorise the Corporation to prohibit altogether within certain defined areas the carrying on of a lawful trade in a lawful manner. (65 L. J., P. C., 4: L. R., [1896] A. C., 88: 73 L. T., 449: 12 *Times* L. R., 46.)

1899, May 9. [178]
White *v.* **Morley.** "Metropolitan Streets Act, 1867," § 23—By-Law prohibiting the use of any street for betting—Held not repugnant to § 23, and valid—Approved of in *Thomas* v. *Sutters* [1899]. (68 L. J., Q. B., 702: L. R., 2 Q. B., 34: 80 L. T., 761: 85 *Times* L. R., 360.)

19. Clerk.

1894, Jan. 25. [179]
Cornwall C. C. *v.* **Truro Corporation.** A County Council claiming the fines levied by Justices of a non-Quarter Sessions Borough, having a separate Commission of the Peace, is liable to pay the salary of the Clerk to the Borough Justices. (63 L. J., M. C., 60: 70 L. T., 354.)

1894, Oct. 30. [180]
Herefordshire C. C., In re. Salary of Clerk to Borough Justices. (65 L. J., M. C., 26: L. R., [1895] 1 Q. B., 43.) [Overruled by *Thetford* v. *Norfolk* (1898).]

1901, May 18. [181]
Huntingdon Corporation *v.* **Huntingdon C. C.** In a borough under 10,000 inhabitants and without a separate Commission of the Peace, there cannot be appointed a Clerk to Justices to act solely for matters arising within the borough, unless a Clerk can be appointed under the "Justices' Clerks Act, 1877," § 5—In this case the County Justices usually acting for the Petty Sessional Division within which the borough is situate will appoint—Salary and expenses will be paid by County Council—Fees and fines payable to County Treasurer—*Thetford* v. *Norfolk* [1898] held not applicable. (70 L. J., K. B., 755: L. R., 2 K. B., 257: 85 L. T., 26: 65 J. P., 675: 17 *Times* L. R., 821.)

1898, March 4. [182]
Reg. *v.* **Douglas.** The position of Clerk to Justices is incompatible with that of Justice of the Peace; and therefore where a Clerk to Justices was elected to another office which carried with it the position of a Justice of the Peace, his acceptance of the latter office vacated his Clerkship. (L. R., 1 Q. B., 560: 78 L. T., 198: 14 *Times* L. R., 267.)

1901, Nov. 26. [183]
Wyatt *v.* **London C. C.** "Local Government Act, 1888," § 119 (1)—Transference of duties of Clerk of the Peace—Existing officer—Compensation—Meaning of the words, "not less salaries or remuneration." (85 L. T., 629: 66 J. P., 325: 18 *Times* L. R., 161.)

21. Compensation.

1900, June 25. [184]
Barnett *v.* **Eccles Corporation.** "Public Health Act, 1875," § 308—"Full compensation" does not include extra costs of legal proceedings which have been incurred over and above taxed party and party costs, by a person against whom the Local Authority has unsuccessfully proceeded under the Act. (69 L. J., Q. B., 834: L. R., 2 Q. B., 423: 83 L. T., 66: 16 *Times* L. R., 463.)

1901, Dec. 18. [185]
East Fremantle Corporation *v.* **Annois.** Australian Law—If a public body in the execution of a public trust do an act authorised by Law, and do it in a proper manner, though the act so done works a special injury to a person, such person is without a remedy unless one is provided by Statute—Gradient of street altered and plaintiff's house injured—Compensation held not payable. (71 L. J., P. C., 39: L. R., [1902] A. C., 213: 85 L. T., 732: 18 *Times* L. R., 199.)

1901, Nov. 22. [186]
Rex *v.* **Stepney Borough Council.** "Local Government Act, 1888," § 120 (1)—A Local Authority in compensating an officer must exercise its discretion, taking into account the particular facts of the case, and not attempt to lay down a hard-and-fast rule for calculating the compensation. (71 L. J., K. B., 238: L. R., [1902] 1 K. B., 317: 86 L. T., 21: 66 J. P., 183: 18 *Times* L. R., 98.)

22. Contract.

1896, June 19. [187]
Baud *v.* **Orsett R. D. C.** Contract for execution of Sewerage Works—Defects—Rescinding of Contract by Contractor—Claim to sue upon *quantum meruit*—Judgment for defendants. (*Loc. Gov. Chron.*, 1896, p. 975.)

1895, Aug. 9. [188]
British Insulated Wine Co. *v.* **Prescot U. C.** "Public Health Act, 1875," § 174—Contract over £50 not specifying pecuniary penalty for breach—Contract held void as against the contractors, but, subsequently, payment authorised by Local Government Board on condition of a new contract being made which should contain a penalty clause. (65 L. J., Q. B, 190: L. R., 2 Q. B., 538: 11 *Times* L. R., 595.)

1902, Aug. 8. [189]
Hoare *v.* **Lewisham, Mayor.** "Metropolis Management Act, 1855," § 144—A Corporation may so acquiesce in an informal contract not under seal, without actually ratifying it, as to be bound by it—A Metropolitan Borough Council has power to enter into an agreement with a landowner, as part of a scheme for widening a road, to remove a sign-post belonging to him, and to re-erect it on the edge of a public footpath. (87 L. T., 464: 18 *Times* L. R., 816.)

1902, April 11. [190]
Lawford *v.* **Billericay R. D. C.**—Plaintiff appointed by agreement under seal to act as engineer for certain Sewage Works—Subsequently the Council instructed him to act as engineer in connection with further works not included in the original scheme—Plaintiff acted, and sued for his remuneration for the further work—Held that he could not recover, as that work was done without an agreement under seal. (18 *Times* L. R., 507.)

1901, April 29. [191]
Leslie *v.* **Metropolitan Asylums Managers.** Building Contract—Builders to employ subcontractors for certain works—Responsibility for delay in completion of contract—Held that under the contract responsibility for the delay and the consequences, whatever they were, rested on the plaintiffs, and that they were not entitled to recover damages from the defendants. (*Loc. Gov. Chron.*, 1901, p. 488.)

1896, March 20. [192]
Murray *v.* **Uxbridge U. D. C.** "Public Health Act, 1875," § 174—Contract for cleansing river—No penalty prescribed—Held that this was no bar to the plaintiff recovering his money. (*Loc. Gov. Chron.*, 1896, p. 785.)

1901, Feb. 1. [193]
Wolverhampton Corporation *v.* **Emmons.** Specific performance of a contract to build houses on Corporation land granted, although builder had changed his mind because he thought the houses would not let—*Per* Romer, L. J.: "As a general rule the Court will not grant specific performance of a building contract, but there is an exception to that rule where 3 conditions of things obtain" [which the learned Judge stated]. (70 L. J., K. B., 429: L. R., 1 Q. B., 515: 84 L. T., 407: 17 *Times* L. R., 234.)

23. Contract, Disqualification from.

1899, Nov. 1. [194]
Barnacle *v.* **Clark.** "Elementary Education Act, 1870," § 34—A member of a School Board who supplied materials to a contractor to be used in carrying out a contract, held guilty of an offence against the Section. (69 L. J., Q. B., 15: L. R., [1900] 1 Q. B., 279: 81 L. T., 484.)

1898, Jan. 14. [195]
Buckley *v.* **Hanson.** "Highway Act, 1835," § 46: "Public Health Act, 1875," § 144: "Local Government Act, 1894," §§ 25 and 46—A member of a Rural District Council who contracts to transport materials for road repairs is not liable to a penalty under the Act of 1835. (77 L. T., 664: 62 J. P., 119.)

1901, Feb. 22. [196]
City of London Electric Lighting Co. *v.* **London Corporation.** "City of London Sewers Act, 1848," §§ 33—42 and subsequent Acts—No Commissioner under the Act to be interested in any contract—Contract with a Company in which no Commissioner was a shareholder assigned to a Company in which there were Commissioners who were shareholders—Held under the circumstances that the contract did not become void. (70 L. J., Ch., 334: L. R., 1 Ch., 602: 84 L. T., 170.)

1896, July 13. [197]
Davis *v.* **Roberts.** Municipal Election—Petition—No defence—Defendant interested in a contract—As his interest was not notorious, held that the petitioner's claim to the seat could not be allowed. (*Loc. Gov. Chron.*, 1896, p. 875.)

1901, March 5. [198]
Ford *v.* **Newth.** "Municipal Corporations Act, 1882," § 12—Where a tender for the supply to a Council for 12 months of goods at a specified price has been accepted, there is an existing contract between the tenderer and Council which is not terminated during the year until the date when the Council, by resolution, actually releases the tenderer—Respondent held disqualified for being elected a member. (70 L. J., K. B., 459: L. R., 1 Q. B., 683; 84 L. T., 354: 65 J. P., 391: 17 *Times* L. R., 325.)

1900, Nov. 29. [199]
Walsh *v.* **Grimsley.** "Local Government Act, 1894," § 46—Defendant Chairman of a Council and of one of its Committees—Building contract accepted with a firm the

ostensible partners of which were the defendant's sons, he himself carrying on the business of a builder—Held that on the facts proved defendant was evidently interested in the contract—*Per* Bigham, J.: "There are too many builders on local bodies: such persons ought not to be elected at all." (MS.)

24. Dangerous Structures.

1899, March 18. [200]
Crisp *v.* **London C. C.** "London Building Act, 1894," §§ 106, 107—Dangerous structure shored up and hoarding fixed in adjacent pavement—In such case the duty of replacing pavement after the shores and hoarding have been removed lies upon the owner and not upon the Council, the originating cause being the owner's original default. (68 L. J., Q. B., 499: L. R., 1 Q. B., 720: 80 L. T., 654.)

1896, Dec. 10. [201]
London C. C. *v.* **Hobbis.** "London Building Act, 1894," §§ 103, 106—Dangerous structure—Notice to repair—Recovery of expenses—The powers and duties conferred on the Council by the above Sections are ministerial, and may be delegated to, and are exercisable by, the duly authorised servants or representatives of the Council. (75 L. T., 687: 45 W. R., 270.)

1894, June 4. [202]
Reg. *v.* **Herring.** "Metropolitan Building Act, 1855," § 73—A Justice may make an Order for the demolition of a dangerous structure, even though it be not adjacent to a highway and therefore not dangerous to the public—(63 L. J., M. C., 230: [*L. C. C.* v. *Herring*] L. R., 2 Q. B., 522: 58 J. P., 721.)

1897, Nov. 2. [203]
Reg. *v.* **Mead (3).** "London Building Act, 1894," §§ 107, 188—Where an owner can be found a summons must be served in accordance with the "Summary Jurisdiction Act, 1848," § 1—But if after ordinary inquiry the owner cannot be found, then the procedure of § 188 comes in, and a summons may be served by affixing a copy on some conspicuous part of the building—But in the absence of evidence that reasonable inquiry has been made to find the owner, § 188 is not applicable and the service would be bad. (66 L. J., Q. B., 874: L. R., [1898] 1 Q. B., 110: 77 L. T., 462: 14 *Times* L. R., 14.)

25. Disqualification.

1899, March 29. [204]
Harford *v.* **Lynskey.** "Municipal Corporations Act, 1882," §§ 12, 88 (1)—A person disqualified for election as Councillor and whose disqualification will not necessarily cease, cannot lawfully be nominated, even though his disqualification may perhaps cease before the day of polling—But such a person is nevertheless a "candidate" entitled to petition in order to question the election. (68 L. J., Q. B., 599: L. R., 1 Q. B., 852: 80 L. T., 417: 15 *Times* L. R., 306.)

1895, Dec. 7. [205]
Hart *v.* **Beard.** "Local Government Act, 1894," §§ 2 (1), 44 (1)—Freemen who have no Borough Parliamentary qualification except as Freemen are not entitled to be Parochial Electors under this Act. (65 L. J., Q. B., 157: L. R., [1896] 1 Q. B., 54: 73 L. T., 535: 12 *Times* L. R., 95.)

1901, June 5. [206]
Rex *v.* **Sunderland J. J.** Agreement between a Municipal Corporation which had purchased a licensed house and brewers, whereby the latter agreed that if they obtained a new licence for a new house in another street they would pay the Corporation £10,000; and Corporation agreed to close the licensed house which they had purchased, the £10,000 to be repaid if the High Court should revoke the grant of the licence—Certain members of the Corporation took an active part as Justices in carrying the matter through, first in negotiating the agreement, and then sitting as Licensing Justices—*Certiorari* issued to quash the confirmation of the licence, as there was a real likelihood of bias. (L. R., 2 K. B., 357: 17 *Times* L. R., 551.)

1893, July 21. [207]
Richardson *v.* **Methley S. B.** "Elementary Education Act, 1870," Sched. II. pt. 1, Rule 14—Member absent for 6 successive months on grounds of ill-health—In such a case a School Board cannot proceed to a new election without first giving the member alleged to have made default an opportunity of explaining or excusing his absence—Injunction granted to restrain Board from proceeding to a new election, and this though there might also be a legal remedy by *Quo warranto*—The member had been present at a meeting near the end of the 6 months, but had sat in the public part of the room and not in the seats allotted to members—He was entered in the minutes as present; but at the next following meeting this entry was expunged, and so the 6 months' lapse came about—*Aslatt* v. *Southampton* [1880] followed. (L. J., 62 L. J., Ch., 943: L. R., 3 Ch., 510: 9 *Times* L. R., 603.)

1899, April 14. [208]
Stanford *v.* **Williams.** "Local Government Act, 1894," §§ 23 (2), 31—Vestryman frequently absent from his qualifying tenement for considerable periods, yet always with *animus revertendi*—Held that there was no disqualification under the Statute—"Residence" under this Act held to bear the same meaning as under the "Registration Acts." (80 L. T., 490: 15 *Times* L. R., 316.)

27. Ditch.

1899, Aug. 4. [209]
Attorney-General *v.* **Waring.** The owner of land adjoining a highway must keep his ditches so that they may not become a nuisance by overflowing on to the highway: in default the Highway Authority can bring an Action against him for an Injunction. (63 J. P., 789.)

30. Election Business.

1899, May 18. [210]
Andrews, In re. "Municipal Elections (Corrupt Practices) Act, 1884," § 20—Where an application for relief is made by several candidates, a joint affidavit of the facts upon which the application is based ought to be made by all the applicants. (68 L. J., Q. B., 683.)

1895, April 23. [211]
Baxter *v.* **Spencer.** "Municipal Corporations Act, 1882," § 60 (4)—Voting papers for election of Aldermen collected by Town Clerk round the room, the Mayor looking on—Held that this was equivalent to a personal delivery to the Mayor. (64 L. J., Q. B., 644.)

1901, March 12. [212]
Bland *v.* **Buchanan.** "Municipal Corporations Act, 1882," §§ 42, 102—At an election of Mayor (or Chairman), a vote given by a disqualified Councillor is bad and cannot be counted if subsequently questioned on the trial of an election petition—An outgoing Mayor (or Chairman) who presides at a meeting has both an original vote and a casting vote, and the casting vote may be given and take effect—*Nell* v. *Longbottom* [1894] followed. (70 L. J., K. B., 466: L. R., 2 K. B., 75: 84 L. T., 390: 65 J. P., 404: 17 *Times* L. R., 348.)

1898, May 20. [213]
Cox *v.* **Davies.** A nomination paper of a candidate at a Rural District Council Election is not invalid because signed by proposer and seconder before the candidate's name was inserted. (67 L. J., Q. B., 925: L. R., 2 Q. B., 202: 14 *Times* L. R., 427.)

1896, Feb. 7. [214]
Drax *v.* **Ffooks.** "Local Government Act, 1894," §§ 2 (1), 3 (1), 43—A woman, married or unmarried, is not entitled in respect of an *ownership* qualification to have her name put upon the Parochial List of electors. (65 L. J., Q. B., 270: L. R., [1896] 1 Q. B., 238: 74 L. T., 43: 12 *Times* L. R., 185.)

1894, March 6. [215]
Louth Municipal Election, In re: Nell *v.* **Longbottom.** "Municipal Corporations Act, 1882," § 22 (3)—A candidate for the office of Mayor voted for himself—Held that as a salary was attached to the office his vote was void, and he liable to a penalty—Held also that a vote given by another Councillor who had supplied goods to the value of 4*d.* was void under § 12 (1*a*, *c*)—Held also that a vote given by another Councillor who had a contract for letting a polling-station was not void, as the subject of the contract was a "lease of land" within § 12 (2*a*)—Chairman of meeting held entitled to vote for one of the candidates, although he was also entitled to a casting vote under § 61 (4). (63 L. J., Q. B., 490: 70 L. T., 499: [*N.* v. *L.*] L. R., 1 Q. B., 767: 10 *Times* L. R., 344.)

1902, April 21. [216]
Lowe *v.* **Lowrie.** "Municipal Corporations Act, 1882," § 93 (7): "Bankruptcy Act, 1883," § 32 (1)—A debtor whose debts do not exceed £5 and whose estate is the subject of an Administration Order by a County Court under § 122 of the Act of 1883, is not "adjudged a bankrupt," or disqualified from being a Councillor. (18 *Times* L. R., 553: *Loc. Gov. Chron.*, 1902, p. 463.)

1901, Jan. 30. [217]
Medhurst *v.* **Lough.** "Ballot Act, 1872"—No ballot papers may be given out after the hour fixed for closing a poll, but papers given out before that time may be deposited in the box, though the hour for closing is passed—An election is not avoided by irregularities committed by a Returning Officer's staff if the result is not shown to have been affected, and the election was conducted substantially fairly and legally. (17 *Times* L. R., 230.)

1895, April 23. [218]
Miller *v.* **Everton.** "Municipal Corporations Act, 1882," §§ 72, 241, and Sched. III.—Candidate, whose name was "Timothy Miller," entered a nomination paper as "Timothy Millar," being so entered (but erroneously) on the Burgess Roll—Held a sufficient statement of candidate's surname for nomination paper to be valid. (64 L. J., Q. B., 692: 72 L. T., 838: 11 *Times* L. R., 364.)

1899, Jan. 17. [219]
Pease *v.* **Lawden.** "Municipal Corporations Act, 1882," §§ 36 (1, 2), 60 (3)—An Alderman, due to retire on Nov. 9, resigned on Nov. 8, paying the fine—Office not declared vacant—The Alderman in question, having been elected Mayor, voted for the new Alderman on Nov. 9—Held that, notwithstanding his resignation, he was an "outgoing" Alderman, and therefore disqualified from voting. (68 L. J., Q. B., 239: L. R., 1 Q. B., 386: 79 L. T., 672.)

1895, March 28. [220]
Reg. *v.* **Miles: Cole, Ex parte.** Parish Council Election—Show of hands declared in favour

of C. and S.—Poll demanded by L. on behalf of himself and M.—L. afterwards found not entitled to demand a poll, yet Chairman held it, and L. and M. were elected—*Mandamus* to Chairman to admit C. and S. refused, *Mandamus* not being the proper remedy for questioning an election. (64 L. J., Q. B., 420: 72 L. T., 502: 11 *Times* L. R., 320.)

1899, Nov. 6. [221]
Reg. *v.* **Nash.** "Local Government Act, 1894," §§ 2 (1), 43, 44—It is the duty of the Revising Barrister to revise the List of Parochial Electors provided by § 44, including the separate List of such Electors, and to revise the List of Ownership Claimants to be entered therein. (69 L. J., Q. B., 77: L. R., [1900] 1 Q. B., 103: 81 L. T., 489: 16 *Times* L. R., 17.)

1896, May 11. [222]
Reg. *v.* **Reynolds (2).** Chairman of District Council—Validity of election, the Chairman having declared himself elected, and having rejected certain votes—*Quo warranto* granted. (*Loc. Gov. Chron.*, 1896, p. 900.)

1898, March 2. [223]
Westacott *v.* **Stewart.** "Ballot Act, 1872," § 1: "Municipal Corporations Act, 1882," § 58—County Council Election—Where a candidate nominated dies before the day fixed for a poll it is the duty of the Returning Officer to countermand the poll and commence fresh proceedings—If he declines to do so, a prerogative writ of *Mandamus* is the proper remedy. (67 L. J., Q. B., 421: 46 W. R., 379: 14 *Times* L. R., 261.)

1895, May 30. [224]
Wilson *v.* **Ingham.** "Ballot Act, 1872"—District Council Election—M., a candidate, duly withdrew his name, but it was accidentally printed on the ballot papers, though not in the notice of poll, numerous copies of which were publicly posted—At the poll the Returning Officer told many voters that M. was not a candidate, yet he obtained 34 votes—Election held void, and that the petition should be allowed with costs against the respondents other than the Returning Officer—Liability of Returning Officer for costs discussed. (64 L. J., Q. B., 775: W. N., 1895, p. 99: 72 L. T., 796: 11 *Times* L. R., 452.)

31. Estimate.

1902, May 15. [225]
Smith *v.* **Southampton Corporation.** "Public Health Act, 1875"—A General District Rate under § 210, the estimate for which includes payments incurred more than 6 months previously, is invalid, and the estimate may be looked at, even though under § 218 it is not to be deemed part of the rate—Where by Provisional Order extending the boundaries of a borough it was enacted that the existing debts of the borough should be borne by the old borough, a Rate which was levied over the borough as extended and included some charges which should have been borne only by the old borough, was held to be invalid. (71 L. J., H. B., 639: L. R., 2 K. B., 244: 87 L. T., 171.)

32. Fences.

1893, May 5. [226]
Reg. *v.* **Schofield.** "Railways Clauses Act, 1845," §§ 46, 47, 61, 62—Justices made an Order on Railway Company to erect handrails and fences at a place where the railway crossed a carriage highway on the level—Held that the Justices had no jurisdiction to make the Order—These provisions are only applicable where the highway is a bridleway or footway. (57 J. P., 324.)

33. Fire Engine.

1893, April 13. [227]
Carter *v.* **Thomas.** A Local Fire Brigade established under the "Public Health Act, 1875," § 171 (with which is incorporated the "Towns Police Clauses Act, 1847," § 32) has power to exclude from premises where a fire has broken out all persons whose presence might cause inconvenience, including members of other Fire Brigades who are not acting under like statutory authority. (62 L. J., M. C., 104: L. R., 1 Q. B., 673: 69 L. T., 436: 57 J. P., 244: 9 *Times* L. R., 386.)

1898, June 18. [228]
Holford *v.* **Acton U. C.** Building land described as adapted for shops, put up for sale by auction but not sold—Proposed condition that each purchaser should erect on each plot a shop of a given minimum value—Some lots subsequently sold, and a Fire Engine Station erected on one of them at more than the prescribed minimum cost—Held that in the absence of express provision that nothing but a shop was to be erected on a plot, the user of a plot for a Fire Engine Station was lawful. (67 L. J., Ch., 637: L. R., 2 Ch., 240: 78 L. T., 829: 14 *Times* L. R., 476.)

1900, Oct. 26. [229]
Janes *v.* **Staines D. C.** "Towns Police Clauses Act, 1847," § 32—A District Council with a Fire Brigade of its own formed under this Act, may in an emergency employ a Fire Brigade from a neighbouring district, and in doing so becomes liable to pay for services rendered, and may lawfully do so. (83 L. T., 426: 17 *Times* L. R., 2.)

1894, Jan. 24. [230]
Sale *v.* **Phillips.** "Towns Police Clauses Act, 1847," § 33—Expenses incurred by a Local Authority in sending engines to extinguish

a fire outside their district are to be borne by the person receiving the rack-rent of the land or building where the fire occurs. (63 L. J., M. C., 79: L. R., 1 Q. B., 349: 70 L. T., 559: 10 *Times* L. R., 222.)

34. Food, Unwholesome.

1893, May 30. [231]
Bater and Birkenhead Mayor, In re. "Public Health Act, 1875," §§ 116, 117, 308—The owner of meat seized as unwholesome and brought before a Justice for condemnation, is not entitled to attend and give evidence in defence of his meat, but the Justice may hear evidence tendered by the owner—If then the Justice refuses to condemn the meat, the full compensation payable under § 308 will include costs reasonably incurred in resisting the condemnation of the meat—But the owner is not entitled to refuse to take it back, and the measure of compensation is the difference (if any) between the value of the meat when seized, and its value when tendered—The full original value is not payable unless the meat has become worthless—*White* v. *Redfern* [1879]: *Vinter* v. *Hind* [1882]: and *Waye* v. *Thompson* [1885] discussed. (62 L. J., M. C., 107: L. R., 2 Q. B., 77: 69 L. T., 220: 9 *Times* L. R., 479.)

1896, Dec. 11. [232]
Billing *v.* **Prebble.** "Public Health (London) Act, 1891," § 47 (2, 3)—The selling of unsound meat by a commission agent to a retail dealer is an offence under sub-section 3 of § 47, and a prosecution should be instituted under that sub-section, and not under sub-section 2. (66 L. J., Q. B., 180: 65 W. R., 187: 13 *Times* L. R., 115.)

1894, Jan. 11. [233]
Blaker *v.* **Tillstone.** "Public Health Act, 1875," § 117—On a summons charging a person with having unsound meat on his premises for sale, it is not necessary to show that he had personal knowledge of the condition of the meat. (63 L. J., M. C., 72: L. R., 1 Q. B., 345: 70 L. T., 31.)

1900, Oct. 29. [234]
Callow *v.* **Tillstone.** "Public Health Act, 1875," §§ 116, 117: "Summary Jurisdiction Act, 1848," § 5—A veterinary surgeon who negligently gives a certificate which leads to unsound meat being exposed for sale, cannot be convicted of the offence of aiding and abetting the exposing of such meat for sale—A person cannot be convicted of a criminal offence merely because he is unskilful and negligent. (83 L. T., 411: 64 J. P., 823.)

1894, May 28. [235]
Reg. *v.* **Dennis.** "Public Health (London) Act, 1891," § 47 (3)—Unsound walnuts sold by a fruit broker to a retail dealer—Notice exhibited that fruit sold wholesale was sold on the condition that the purchaser should sort it and destroy any unsound portion before offering it for retail sale—The retailer, finding the walnuts bad, offered none for sale, but called in the Sanitary Inspector, and all were condemned by a Magistrate as unfit for human food—Broker summoned and convicted—Held that the conviction must be quashed, as he had been guilty of no offence. (63 L. J., M. C., 153: L. R., 2 Q. B., 458: 71 L. T., 436: 10 *Times* L. R., 498.)

1900, May 16. [235*a*]
Thomas *v.* **Van Os.** "Public Health (London) Act, 1891," § 47—Application to Magistrate to condemn unsound food which clearly was unsound when seized—Held that he was not justified in refusing to condemn it on the ground that when seized it was not intended for the food of man or exposed or deposited in any place for sale. (69 L. J., Q. B., 605: L. R., 2 Q. B., 448: 82 L. T., 845: 16 *Times* L. R., 388.)

1899, June 6. [236]
Walshaw *v.* **Brighouse Corporation.** "Public Health Act, 1875," §§ 116, 117, 308—Plaintiff's meat was seized by Corporation Inspector and condemned by Magistrate as unwholesome—Summons against plaintiff was dismissed for defect of form, and no order made as to costs—On an arbitration under § 308 the Arbitrator found that the meat was sound, and he awarded the plaintiff compensation—Action on the award—Held that the Arbitrator's finding was conclusive; that the Corporation were liable to pay full compensation; and that this must include costs incurred by plaintiff in opposing the summons. (68 L. J., Q. B., 828: L. R., 2 Q. B., 286: 81 L. T., 2: 15 *Times* L. R., 403.)

35. Footpath.

1897, Dec. 3. [237]
Dartford R. C. *v.* **Bexley Heath Railway.** "Railway Clauses Act, 1845," § 46—There is no obligation under this Section on a Railway Company to carry a public footpath over a railway, or the railway over a footpath, by means of a bridge. (67 L. J., Q. B., 231: L. R., [1898] A. C., 210: 77 L. T., 601: 14 *Times* L. R., 91.)

36. Gas Company, Powers, &c., of.

1901, June 12. [238]
Batcheller *v.* **Tunbridge Wells Gas Co.** "Gasworks Clauses Act, 1871," § 9—Escape of gas from leaky main in road—Water supply to certain houses rendered unfit for use—Owners and occupiers of houses held entitled to maintain an action for nuisance against the Gas Company, even though the water-pipe was also defective and so let in the

escaping gas—A Gas Company has no statutory authority to commit a nuisance—The Company laid its gas-pipes at its peril, and plaintiffs owed no duty to the defendants to make their water-pipe gas-tight. (84 L. T., 765: 17 *Times* L. R., 577.)

1901, June 12. [239]
Chaplin & Co. *v.* Westminster, Mayor. "Metropolis Management Act, 1855," § 130—An owner of premises adjoining a highway cannot restrain a Local Authority acting *bonâ fide* under statutory powers from performing its statutory duty to light the street by doing so in the way it thinks best, even though a lamp-post erected on the highway obstructs such owner in the convenient carrying on of his business. (70 L. J., Ch., 679: L. R., 2 Ch., 329: 85 L. T., 88: 17 *Times* L. R., 576.)

1896, March 2. [240]
Clegg, Parkinson & Co. *v.* Early Gas Co. "Gasworks Clauses Act, 1871," §§ 11, 12—The obligation to supply pure gas imposed by this Statute is statutory and not contractual—The means of enforcing it is either by Indictment or by the remedy provided by the Act. (L. J., 65 Q. B., 339: L. R., 1 Q. B., 592: 44 W. R., 608: 12 *Times* L. R., 241.)

1889, Aug. 9. [241]
Gas Light & Coke Co. *v.* South Metropolitan Gas Co. "Metropolis Gas Act, 1860," §§ 6, 14—Held that a Gas Company is prohibited by this Act from furnishing to a customer gas for consumption within the district assigned to another Company, notwithstanding that the meter through which the supply passes is on a part of the customer's property which is within the district of the Company which affords the supply, and was erected there at the customer's request. (62 L. J., Ch., 123: 62 L. T., 126: 54 J. P., 373.)

1899, May 16. [242]
Jordeson *v.* Sutton, Southcoates, and Drypool Gas Co. "Gasworks Clauses Acts, 1847, 1871"—Excavations by Company under their statutory powers for the erection of a gasometer—Injury to plaintiff's land by draining away water and so causing subsidence of his houses—Held that plaintiff was entitled to obtain damages, and also an Injunction to restrain interference with his ancient lights, as he could not be adequately protected merely by obtaining damages. (68 L. J., Ch., 457: L. R., 2 Ch. 217: 80 L. T., 815: 15 *Times* L. R., 374.)

1899, July 28. [243]
Montreal Gas Co. *v.* Cadieux. "Gasworks Clauses Act, 1847:" Canadian Act modelled on it—Company authorised to stop supplying gas at any house of several houses on owner's neglect to pay the bill for any one of them—Held that there is nothing in the Canadian Section to limit the authority of the Company to the particular house in respect of which there has been default, and that such a limitation cannot be implied. (68 L. J., P. C., 126: L. R., A. C., 589: 81 L. T., 274.)

1896, June 9. [244]
Paterson *v.* Gas Light & Coke Co. "Gasworks Clauses Act, 1847," § 16: Special Act—A Limited Company owed arrears for gas—Receiver appointed—Refusal by Gas Company to continue supply of gas unless arrears paid—Held that the relation of the receiver to the debtor Company was not that of incoming and outgoing tenant, but of caretaker and owner, and that the receiver was in no better position than the debtor Company, and therefore could not claim a continuance of the gas supply except on payment of the arrears—Referred to in *Marriage, In re*, [1896]. (65 L. J., Ch., 709: L. R., 2 Ch., 476: 74 L. T., 640: 12 *Times* L. R., 459.)

1892, Oct 25. [245]
Richmond Gas Co. and Richmond Corporation, In re. "Gasworks Clauses Act, 1871," §§ 24, 36: Special Act—A Gas Company under a statutory obligation to supply a fixed quantity of gas to public lamps at a fixed price during a certain period are not liable to have the payments due to them reduced if by reason of an occurrence over which they had no control (*e.g.* an exceptional frost) the fixed quantity of gas has not been supplied during a part of the period, as this has not been due to neglect or refusal on the Gas Company's part. (62 L. J., Q. B., 172: L. R., [1893] 1 Q. B., 56: 67 L. T., 554: 9 *Times* L. R., 5.)

37. Guardians, Board of.

1897, July 23. [246]
West Derby Union *v.* Metropolitan Life Assurance Society. "Poor Law Loans Act, 1871," § 2—Guardians who have since this Act borrowed moneys to be repaid at stipulated times cannot, even with the authority of the Local Government Board, under § 2, compel a lender to accept against his will repayment otherwise than in accordance with the contract. (66 L. J., Ch., 726: L. R., A. C., 647: 77 L. T., 284: 13 *Times* L. R., 536.)

38. Hackney Carriages.

1893, Dec. 4. [247]
Cocks *v.* Mayner. "Towns Police Clauses Act, 1847," § 45—M., failing to obtain a licence, started an omnibus which went on the same route as another licensed vehicle—He exhibited notices that "This bus is free of charge, but voluntary contributions will be

welcomed"—In the result passengers paid nearly the same amount as if the omnibus had been running under a licence with a recognized table of fares—Held that M. plied for hire within § 45, and that Justices were wrong in holding that because there was no contract there could be no plying for hire. (70 L. T., 403: 58 J. P., 104: 10 *Times* L. R., 138.)

1902, May 8. [248]
Gates v. Bill. "London Hackney Carriages Act, 1843," § 2: "Metropolitan Public Carriage Act, 1869," § 6—Licence taken out in name of one member only of a firm—Held, nevertheless, that an Action would lie against the firm collectively for damage done by a cab-driver in the employ of the firm. (71 L. J., K. B., 702: 87 L. T., 288: 18 *Times* L. R., 592.)

1901, April 19. [249]
Hawkins v. Edwards. "Towns Police Clauses Act, 1847," § 38—A carriage licensed under this Act as a hackney carriage is such at all times, and not merely while it is standing or plying for hire in a street—Accordingly, a By-Law applying while a carriage is being driven for hire applies, though the person hiring it has done so under a special arrangement, and did not hire it while it was standing or plying for hire—Number plate held unlawfully concealed from view. (70 L. J., K. B., 597: L. R., 2 K. B., 169: 84 L. T., 532: 17 *Times* L. R., 430.)

1900, Jan. 29. [250]
Jones v. Short. "Towns Police Clauses Act, 1847," §§ 3, 38, 45—Respondent, a cab-driver, stood for hire with an unlicensed carriage in a road, the property of a Railway Company, and adjoining their station—Summons for plying for hire with an unlicensed carriage held properly dismissed, as the place was not a "street" within the above § 3—Held also that to constitute an offence against § 45 it must be proved that the vehicle was a hackney carriage within § 38—*Curtis* v. *Embrey* [1872] followed. (69 L. J., Q. B., 473: 82 L. T., 197.)

1893, Nov. 24. [251]
Keen v. Henry. "London Hackney Carriage Act, 1843"—Negligence of driver—So far as the public are concerned, the proprietor of a carriage is responsible for the acts of the driver while plying for hire, as if the relationship of master and servant subsisted between them, though it does not in fact exist. (63 L. J., Q. B., 211: L. R., 1 Q. B., 292: 10 *Times* L. R., 96.)

1896, Nov. 10. [252]
Kippins, Ex parte. "London Hackney Carriage Act, 1853" (16 & 17 Vict., c. 33), § 17—Refusal of cab-driver to enter railway station—"Place"—"Place" here means any place to which the hirer of a carriage requires the driver to go, and to which he can gain admittance, even though such a place may be on private property, such as a railway station. (66 L. J., Q. B., 95: L. R., [1897] 1 Q. B., 1: 75 L. T., 421: 13 *Times* L. R., 34.)

1895, Jan. 15. [253]
Norris v. Birch. "Hackney Carriage Act, 1843," §§ 8, 22—Licence—Entries made by cab-proprietor on driver's licence not required by the Statute—What constitutes a defacement of a licence—Held that under the circumstances the Magistrate ought to have awarded compensation to the driver—Case remitted. (64 L. J., M. C., 91: L. R., 1 Q. B., 639: 72 L. T., 491: 11 *Times* L. R., 172.)

39. "House," Definition of.

1897, Dec. 9. [254]
London C. C. v. Davis (2). "London Building Act, 1894," §§ 5 (27), 13 (5)—Certain buildings, one being known as "Rowton House," held not to be dwelling-houses "to be inhabited or adapted to be inhabited by persons of the working classes"—*Per* Channell, J.:—"By 'working class' in § 13 is meant that class of persons who ordinarily live in such a condition of life that overcrowding is likely to take place." (77 L. T. 693: 14 *Times* L. R., 113.)

1900, Jan. 12. [255]
London C. C. v Lewis. Building of which second, third, and fourth floors were used as "factories" within § 93 of the "Factory Act, 1878"—The tenants of the basement, ground, and first floors did not carry on "factory" businesses—Held that under the "Factory and Workshop Act, 1891," § 7 (2), neither the Sanitary Authority nor an Arbitrator under § 7 (2) had jurisdiction to require the owner of the building to provide a fire-escape for the second and higher floors in the form of a staircase, which would encroach on the lower floors—Motion to set aside an award—Award remitted. (69 L. J., Q. B., 277: 82 L. T., 195.)

40. Income Tax.

1892, March 26. [256]
Bootham Ward Strays, In re. "Inclosure Act," dated 1763: "Customs and Inland Revenue Act, 1885"—Certain allotments held exempt from duty; certain other property held not exempt—Complicated local circumstances. (61 L. J., Q. B., 432: [*Inland Revenue Commissioners* v. *Scott*] L. R., 2 Q. B., 152: 67 L. T., 173: 8 *Times* L. R., 458.)

1900, Dec. 10. [257]
London C. C. v. Attorney-General (1). "Income Tax Acts:" "Customs and Inland

Revenue Act, 1888," § 24 (3)—Consolidated Stock—Circumstances under which a Local Authority is entitled to Income Tax deducted by its tenants under scheds. A and D. (70 L. J., Q. B., 77: L. R., [1901] A. C., 26: 83 L. T., 605: 17 *Times* L. R., 131.)

1896, July 31. [258]
Manchester, Mayor *v.* **M'Adam.** "Income Tax Act, 1842," § 61: "Public Libraries Acts" — A Free Library is exempt from Income Tax. (65 L. J., Ch., 672: L. R., [1896] A. C., 500: 75 L. T., 229: 12 *Times* L. R., 606.)

41. Infectious Diseases, Hospitals, Mortuaries.

1893, March 2. [259]
Attorney-General *v.* **Manchester Corporation.** Proposed Small-pox Hospital—Anticipated nuisance—Any one seeking an Injunction to restrain an alleged future nuisance must show a strong case of probability that the apprehended mischief will arise—Injunction refused on the ground that there was not sufficient evidence of probable danger from the erection of the Hospital. (62 L. J., Ch., 459: L. R., 2 Ch., 87: 68 L. T., 608: 57 J. P., 340 and 343: 9 *Times* L. R., 315.)

1897, Nov. 1. [260]
Baker *v.* **Williams.** Regulations by Local Authority under the "Contagious Diseases (Animals) Act, 1878," § 34—Cow-houses—Air-space—"Ventilation" in clause 13 of the Privy Council Order, 1885, includes air-space, and a regulation requiring 800 cubic ft. of free air-space for each cow is not *ultra vires*. (66 L. J., Q. B., 880: L. R., [1898] 1 Q. B., 23: 77 L. T., 495: 14 *Times* L. R., 12.)

1895, June 17. [261]
Chastey *v.* **Ackland.** Obstruction of free current of air by erection of high wall whereby plaintiff's living-rooms were rendered less sanitary—Held, no right of Action, in the absence of proof of immemorial user or of contract. (64 L. J., Q. B., 523: L. R., 2 Ch., 389: 72 L. T., 845: 11 *Times* L. R., 460.)

1898, May 20. [262]
Hull Corporation *v.* **Maclaren.** "Public Health Act, 1875," § 132—Expenses incurred by a Local Authority in maintaining a child in an Infectious Hospital are not recoverable from the parent unless the parent has contracted, expressly or by implication, to pay such expenses. (*Loc. Gov. Chron.*, 1898, p. 585.)

1896, March 13. [263]
Keegan *v.* **Birmingham, Mayor.** Death of child from fever—Alleged cause the child's discharge from Hospital when in an infectious state—Action for damages: Verdict for plaintiff, £50. (In County Court.) (*Loc. Gov. Chron.*, 1896, p. 427.)

1898, May 19. [264]
London C. C. *v.* **Edwards.** "Dairies, &c., Order, 1885," requiring the removal of milk from premises where infectious disease has broken out—Building of three floors, each adapted for separate occupation, but having a common central staircase—Ground floor used as milk-shop—Infectious disease on third floor—Respondent tenant of the whole building—Held that the non-removal of milk from the ground floor was, under the circumstances, an infringement of the regulation. (67 L. J., Q. B., 648: L. R., 2 Q. B., 75: 78 L. T., 558.)

1899, May 2. [265]
Reg. *v.* **Davey.** "Public Health Act, 1875," § 124—On an information for obstructing the execution of an Order for the removal of an infectious case Justices cannot inquire into the validity of the Order, but must convict if the fact of obstruction is proved. (68 L. J., Q. B., 675: L. R., 2 Q. B., 301: 80 L. T., 798: 15 *Times* L. R., 344.)

1895, July 9. [266]
Sarson *v.* **Roberts.** Landlord and tenant—Furnished lodgings—Infectious disease in landlord's family concealed from tenant—Tenant's family taken ill—On letting a furnished house or apartments there is no implied warranty that the tenement shall continue to be reasonably fit for habitation during the period of the tenancy. (65 L. J., Q. B., 37: L. R., 2 Q. B., 395: 11 *Times* L. R., 515.)

1899, June 9. [267]
Warwick *v.* **Graham.** "Public Health Act, 1875," § 124—Person suffering from infectious disorder had indeed proper lodging accommodation so far as he himself was concerned at his father's house, but he could not be properly isolated, and there would be danger of infection to other inmates if he remained in the house—Held that he was "without proper lodging or accommodation" within § 124. (68 L. J., Q. B., 1001: L. R., 2 Q. B., 191: 80 L. T., 773: 15 *Times* L. R., 410.)

1893, Feb. 7. [268]
Withington L. B. *v.* **Manchester Corporation.** "Public Health Act, 1875," §§ 112, 131, 285—A Local Authority may erect an Infectious Hospital outside their own district without the consent of the Authority of the district in which the Hospital is to be placed—A Small-pox Hospital is not an "offensive business" within § 112, so as to require such consent under § 285. (62 L. J., Ch., 393: L. R., 2 Ch., 19: 68 L. T., 330: 57 J. P., 340 and 342: 9 *Times* L. R., 257.)

43. Landlord and Tenant.

1898, June 27. [269]
Baylis *v.* **Jiggens.** "Public Health Act, 1875," § 150—Paving expenses recovered in a summary manner by an Urban Authority cannot be recovered by the owner from his tenant under a covenant by the tenant to pay "all rates, taxes, and assessments whatsoever which now are or during the term shall be imposed or assessed upon the premises or the landlords or tenants in respect thereof by authority of Parliament or otherwise, except the landlord's property tax"—Paving expenses are rather in the nature of a "charge" on the property than an assessment of a temporary and recurring character, which latter may be considered as fairly chargeable to a tenant. (67 L. J., Q. B., 793: L. R., 2 Q. B., 315: 79 L. T., 78: 14 *Times* L. R., 493.) [Many cases of the like character reviewed and discussed by Channell, J.]

1897, Jan. 29. [270]
Brett *v.* **Rogers.** Lease—Covenant by Lessee to pay "duties" assessed on the premises—Lessee held liable as between himself and the landlord to pay the cost incurred by the latter in abating a nuisance arising from drains under an order served upon him by the Local Authority (Metropolis)—*Payne* v. *Burridge* [1844] followed. (66 L. J., Q. B., 287: L. R., 1 Q. B., 525: 76 L. T., 26: 13 *Times* L. R., 175.)

1900, Jan. 20. [271]
Copland's Settlements, In re. "Public Health (London) Act, 1891:" "London Building Act, 1894"—Cost of sanitary works—Equitable tenant for life—There is no distinction in the position of an equitable tenant for life of leaseholds where the property is sublet at a rack-rent, and where it is sub-let at an improved ground-rent—As between a tenant for life and a remainder-man, the cost of complying with a sanitary notice under the former Act and a dangerous structures notice under the latter Act is chargeable against income. (69 L. J., Ch., 240: L. R., 1 Ch., 326: 82 L. T., 194.)

1899, Nov. 27. [272]
Farlow *v.* **Stevenson.** "Metropolis Management Act, 1855," § 85: "Amendment Act, 1862," §§ 64, 97—Covenant by tenant to pay "all taxes, rates, duties, and assessments whatsoever which now are or hereafter shall become payable for or in respect of the premises hereby demised or any part thereof, whether Parliamentary, parochial, or otherwise, except the landlord's property tax"—Tenant held liable to pay for drainage works required under the above § 85—*Brett* v. *Rogers* [1897] approved. (69 L. J., Ch., 106: L. R., [1900] 1 Ch., 128: 81 L. T., 589: 16 *Times* L. R., 57.)

1897, March 12. [273]
Floyd *v.* **Lyons and Co.** Under a covenant by lessor to pay all water-rates imposed on premises, the lessor is not bound to pay for water supplied for lessee's trade purposes. (66 L. J., Ch., 350: L. R., 1 Ch., 633: 76 L. T., 251: 13 *Times* L. R., 278.)

1901, April 20. [274]
Foulger *v.* **Arding.** "Public Health (London) Act, 1891," § 4—Where a lessee has covenanted to pay all taxes, rates, &c., &c., and the lease contains no covenant by lessee to repair, he will not be liable as between himself and his landlord to pay for the abatement of a nuisance arising from structural defects as to which notice has been served by the Local Authority—In such a case in order to fix the tenant with liability there must be in the covenant a contract or undertaking to indemnify the landlord against a particular charge. (70 L. J., K. B., 580: L. R., 2 K. B., 151: 84 L. T., 467.)

1898, Feb. 1. [275]
Mile End Vestry *v.* **Whitby.** A tenant from year to year agreed to pay all outgoings—In the course of the tenancy a new kind of Rate was imposed, to be paid by the tenant, who could deduct it from the rent, apart from any agreement to the contrary—Held that the tenant could deduct it as the agreement between him and his landlord did not apply to such new Rate, and that there was no agreement to the contrary—But that only the current Rate could be deducted, not the arrears of previous Rates paid by the tenant. (78 L. T., 80.)

1893, June 2. [276]
Smith *v.* **Robinson.** "Public Health (London) Act, 1891," §§ 4, 11—A lessee covenanted to pay all rates, &c., imposed on the lessor in the respect of the premises, and to repair—Lessor compelled by Local Authority to repair a drain which by the neglect of the lessee was out of order—Held that the expenses were a charge on the lessor which he was entitled to recover from the lessee. (L. R., 2 Q. B., 53: 69 L. T., 434: 9 *Times* L. R., 463.)

1901, Feb. 5. [277]
Smith's Settled Estates, In re. "Public Health Act, 1875," § 257: "Settled Land Act, 1890," § 11—The tenant for life paid expenses which had been incurred by a Local Authority, and made a charge on the estate by the former Act—Held that this was a charge on the inheritance, and that he was entitled to keep it alive as an encumbrance on the settled land, and to raise money under § 11 of the above Act of 1890. (70 L. J., Ch., 273: L. R., 1 Ch., 689.)

1902, March 3. [278]
Weld *v.* **Clayton-le-Moors U. D. C.** "Public Health Act, 1875," § 150—Apportioned paving expenses, which the landlord has paid, can be recovered from the tenant where the latter has covenanted to pay all rates, taxes, assessments, and outgoings, payable, or to be payable, by the landlord or tenant in respect of the premises. (86 L. T., 584.)

1897, Oct. 27. [279]
Williams *v.* **Barmouth U. D. C.** "Public Health Act, 1875," §§ 173, 174—Where a Local Authority enters into a contract under seal with a contractor for the construction of works, and the contract contains the usual powers to the controlling engineer to vary the details of the works, all such variations can be carried out so as to bind the parties without a fresh contract under seal—An agreement between a Local Authority and a contractor as a compromise and in full settlement of all claims made by him is not a contract under § 173 for carrying the "Public Health Act" into execution so as to require to be sealed; and therefore such an agreement, though not under seal, is capable of being enforced against the Local Authority. (77 L. T., 383.)

1899, Feb. 12. [280]
Wix *v.* **Rutson.** "Metropolis Management Acts, 1855, 1862"—Covenant by lessee of land to pay all charges in respect of the premises assessed upon the lessor—Lease determinable at 6 months' notice—Lessor gave the notice, and contracted to sell the property—Local Authority apportioned paving expenses, fixing no date for payment—Lessor paid the amount—Work commenced after the notice to determine the lease had expired—Action by lessor to recover under the covenant the amount paid to the Authority—Held that the words of the covenant included the expenses of paving, and that when the Local Authority gave notice to the lessor of the charge it became operative, and the lessor became liable, and was therefore entitled to recover from the tenant under the covenant—Held also that the lessor remained "owner" until the date fixed by the contract of sale for the completion—*Thompson v. Lapworth* [1868] followed. (68 L. J., Q. B., 298: L. R., 1 Q. B., 474: 80 L. T., 168: 15 *Times* L. R., 200.)

44. "Lands Clauses Act, 1845."

1899, May 12. [281]
Aldis *v.* **London Corporation.** "Michael Angelo Taylor's Act" (57 Geo. III., c. xxix.), § 80—A Local Authority requiring part of a house for widening a street cannot give notice to take the whole house against the owner's wishes unless they can prove that the remainder is useless to him—And this even though the removal of the part actually required would destroy the identity of the house as such to such an extent that the owner might have compelled them to take the whole if they had given notice to treat for only a part. (68 L. J., Ch., 576: L. R., 2 Ch., 169: 80 L. T., 683.)

1901, Jan. 11. [282]
Ashton Vale Iron Co. *v.* **Bristol, Mayor.** "Lands Clauses Act, 1845," §§ 18, 92, 123—Where promoters of an undertaking with compulsory powers of purchase of land have validly and properly withdrawn a notice to treat, they can, if the time limited for the exercise of their powers has not expired, give a fresh notice to treat in respect of the same land. (70 L. J., Ch., 230: L. R., 1 Ch., 591: 83 L. T., 694: 17 *Times* L. R., 183.)

1901, Nov. 28. [283]
Attorney-General *v.* **Eastbourne Corporation.** "Finance Act, 1894," § 12—Purchase of Electric Light Works under Statutory Authority—Where property comprising both realty and chattels is purchased under statutory authority, an instrument of conveyance must be produced stamped with an *ad valorem* duty calculated upon the whole consideration for the entire property including the chattels. (77 L. J., K. B., 181: L. R., [1902] 1 K. B., 403: 85 L. T., 745: 66 J. P., 36: 18 *Times* L. R., 122.)

1900, June 20. [284]
Attorney-General *v.* **Hanwell U. C.** "Public Health Act, 1875," § 175—Land acquired for the disposal of sewage cannot be used, even in part, for a different purpose, *e.g.* as a site for a Hospital—Local Government Board has no power to authorise retention of land for purposes permanently inconsistent with the purposes for which the land was acquired. (69 L. J., Ch., 626: L. R., 2 Ch., 377: 82 L. T., 778: 16 *Times* L. R., 452.)

1897, Nov. 11. [285]
Attorney-General *v.* **Teddington U. C.** "Public Health Act, 1875," § 175—Land bought for sewage utilisation—Small portion not immediately wanted used temporarily for deposit of refuse and as a recreation-ground—Application to compel re-sale as superfluous land, of portion temporarily used, refused; there being evidence that it would eventually be wanted—Held, however, that the use of the part used for refuse would prejudice its use for sewage purposes hereafter, and was therefore unlawful; but no objection to the temporary recreation-ground. (67 L. J., Ch., 23: L. R., [1898] 1 Ch., 66: 77 L. T., 426: 14 *Times* L. R., 32.)

1893, Feb. 1. [286]
Belton *v.* **London C. C.** "Land Clauses Act, 1845"—Compulsory Purchase—Compensation—Reversionary value of fully licensed public-house let on lease with 26 years to

run—Principle of valuation in such cases. (62 L. J., Q. B., 222: 68 L. T., 411: 57 J. P., 185: 9 *Times* L. R., 232.)

1899, Jan. 12. [287]
Donaldson *v.* **South Shields Corporation.** Local Act authorising the taking of lands for street works—Held that certain lands fronting the new line of street which the Corporation desired to take, not for the construction of the street works, but for the purpose of re-sale at a profit so as to reduce the cost of the street works, could not be taken under the powers of the Local Act. (68 L. J., Ch., 162: 79 L. T., 685.)

1902, May 14. [288]
East Stonehouse U. D. C. *v.* **Willoughby.** Action of Ejectment—Complicated state of facts as regards leases of property acquired in part by District Council for street-widening purposes. (L. R., 2 K. B., 318: 87 L. T., 366.)

1899, March 10. [289]
Fernley *v.* **Limehouse B. W. (1).** Board contracted to sell such part of site of 2 houses as was not required for widening a street—Board afterwards decided to acquire whole of site, and gave notice to treat to owner under "Michael Angelo Taylor's Act, 1817" (57 Geo. III., c. xxix.), § 96—Notice to treat held bad because Board had a purchaser ready, and had not given the owner the option of purchasing the part not required for widening the street—Injunction granted. (68 L. J., Ch., 344: 80 L. T., 351.)

1900, Feb. 13. [290]
Fernley *v.* **Limehouse B. W. (2).** "Michael Angelo Taylor's Act, 1817"—A Local Authority requiring part of 2 houses for widening a street adjudged that it was necessary to acquire the whole, and gave notice accordingly—Owner subsequently informed that his right of pre-emption of the part not required would be reserved to him—It being affirmed proved that the whole was necessary—Held that the Authority could take the whole. (82 L. T., 524.)

1895, April 9. [291]
Foster *v.* **Sheffield, Mayor.** "Lands Clauses Act, 1845," § 34—*Per* Lord Esher, M.R.: "An offer made by promoters can be withdrawn by them, and in such case they cannot claim the benefit granted to them by § 34." (72 L. T., 549.)

1900, Aug. 2. [292]
Gibbon *v.* **Paddington Vestry.** "Michael Angelo Taylor's Act, 1817," §§ 80, 82—A Vestry requiring part of a house for widening a street may be required to take the whole if the removal of the part will substantially injure the enjoyment of the house in the manner in which it was formerly enjoyed. (69 L. J., Ch., 746: L. R., 2 Ch., 794: 83 L. T., 136: 16 *Times* L. R., 538.)

1894, June 25. [293]
Gordon *v.* **St. Mary Abbott's, Kensington, Vestry.** "Michael Angelo Taylor's Act, 1817," §§ 80, 82—Where a London Highway Authority determines that part of a house obstructs the widening of a street, they can under some circumstances take such part, and the owner cannot compel them to take the whole—This they can do when the taking will not involve a substantial alteration of the character of the house or substantially interfere with the convenience of the occupier or render necessary structural alterations to carry on a different or more limited business—The question as to the character of the proposed alteration is a question of fact to be found, before the Court can decide whether or not the Local Authority has properly exercised its jurisdiction under the Act. (63 L. J., M. C., 193: L. R., 2 Q. B., 742: 71 L. T., 196: 10 *Times* L. R., 557.)

1897, Nov. 26. [294]
London C. C. *v.* **City of London Brewery Co.** Special Act—Purchase of public-house for improvement of a bridge approach—"Tied" house—Principles of valuation. (67 L. J., Q. B., 382: 77 L. T., 463: 14 *Times* L. R., 69.)

1895, Feb. 15. [295]
London S. B. *v.* **Smith.** "Lands Clauses Act, 1845"—Land acquired as site for school enclosed by a hoarding—Site included part of a private road over which defendant claimed a right of way—As he had not been paid any compensation for loss of his right he several times pulled down so much of the hoarding as obstructed his way—Action by School Board for Injunction against him—Injunction granted—His remedy was under § 68 of the Act of 1845. (W. N., 1895, p. 37.)

1896, Aug. 11. [296]
Morgan and London & North Western Railway Arbitration. Land let by a Municipal Corporation on long lease—Part to be used as a recreation-ground—Proviso for re-entry if any of the land was ever wanted by a Railway Company—Sub-lease back to Corporation—Held that the lessors, on receiving notice to treat, were entitled to demand compensation on the basis of the building value of the land. (66 L. J., Q. B., 30: L. R., 2 Q. B., 469: 75 L. T., 226: 12 *Times* L. R., 632.)

1902, May 11. [297]
River Roden Co. *v.* **Barking Town U. D. C.** Light Railway—Notice to treat—Where undertakers have given a notice to treat and have obtained a valuation by a Board of

Trade Surveyor in the manner prescribed by the "Railway Companies Act, 1867," § 36, the Court has no jurisdiction to interfere by way of Injunction to restrain entry on the ground that there may have been a mistake in the valuation. (18 *Times* L. R., 608.)

45. Legal Proceedings.

(1.) GENERAL.

1899, Dec. 1. [298]
Attorney-General *v.* **Hughes.** "Local Government Act, 1894," § 70 (2)—In consequence of disputes as to the proper objects of a charity, and of an application made to them by the defendant, a trustee, the Charity Commissioners caused a local inquiry to be held, and subsequently wrote to the defendant, stating their views—No appeal against their decision—Held that the official letter constituted a determination of the Commissioners under the above enactment, and was conclusive. (81 L. T., 679: 48 W. R., 150.)

1897, May 20. [299]
Attorney-General *v.* **Newcastle-upon-Tyne Corporation** (1). Production of Documents—Crown rights—The Crown has the same right of discovery against a subject as one subject has against another, but cannot be compelled to give discovery to a subject. (66 L. J., Q. B., 593: L. R., 2 Q. B., 384: 77 L. T., 203.) [*See next paragraph.*]

1899, July 25. [300]
Attorney-General *v.* **Newcastle-upon-Tyne Corporation** (2). Privileged Documents—Matter tending to impeach case of party claiming privilege—Information claiming on behalf of the Crown a declaration of title to foreshore—Order by Divisional Court that defendant should make a further affidavit of discovery, and produce for inspection all documents therein specified except such as he should by his affidavit identify and state to relate solely to his own case, and to contain nothing impeaching his case or supporting the case of the informant—Held that the order must be varied by striking out the words, "impeaching the case of the defendant or," as the affidavit would suffice without those words to support an objection to produce documents. (68 L. J., Q. B., 1012: L. R., 2 Q. B., 478: 81 L. T., 311: 15 *Times* L. R., 495.)

1898, May 12. [301]
Cumberland C. C. *v.* **Inland Revenue Commissioners.** An agreement between a County Council and an Urban District Council as to payments for the maintenance of main roads held not an agreement under the "Highway Acts," and chargeable with a 6*d.* stamp; but under the "Local Government Act, 1888," § 11, and therefore requiring a 10*s.* stamp; because a "deed of any kind whatsoever not described in the schedule of the "Stamp Act, 1891." (78 L. T., 679: 62 J. P., 407: 14 *Times* L. R., 408.)

1898, Jan. 17. [302]
Gayford *v.* **Chouler.** "Malicious Damage Act, 1861" (24 & 25 Vict., c. 97), § 52—Trespasser walked across a field in spite of a notice of "no road," and refused to listen to landowner's protest—Held rightly convicted of wilful damage to real property, *i.e.* grass. (67 L. J., Q. B., 404: L. R., 1 Q. B., 316: 78 L. T., 42: 14 *Times* L. R., 166.)

1900, April 4. [303]
Goldberg *v.* **Liverpool Corporation.** Electric Tramway Works—Where a Local Authority acting under statutory powers do something which constitutes a nuisance to an individual, such person has no remedy unless he can prove that the statutory powers have been abused and not carried out with *bona fides*. (82 L. T., 362: 16 *Times* L. R., 320.)

1898, June 14. [304]
Grand Junction Waterworks Co. *v.* **Hampton U. C.** (1). "Public Health (Buildings in Streets) Act, 1888," § 3—In the absence of very special circumstances the Court will not entertain an Action for a declaration of right brought to obtain a decision whether a particular building does or will contravene an enactment, where the Legislature has indicated that a Court of Summary Jurisdiction may decide the question—*Auckland* v. *Westminster* [1872]: *Kerr* v. *Preston* [1876]: and *Stannard* v. *St. Giles, Camberwell* [1882] considered. (67 L. J., Ch., 603: L. R., 2 Ch., 331: 78 L. T., 673: 14 *Times* L. R., 467.)

1897, Nov. 2. [305]
Lewis *v.* **Poole.** "Tithe Act, 1860," § 28: "Local Government Act, 1894," § 17 (8)—Resolution of Parish Council for tithe documents to be placed in their custody confirmed by County Council—Justices thereupon have power to order delivery of such documents by Incumbent to Parish Council. (L. R., [1898] 1 Q. B., 164: 77 L. T., 369: 14 *Times* L. R., 15.)

1898, April 25. [306]
London Tramways Co. *v.* **London C. C.** "Tramways Act, 1870," § 43—A decision of the House of Lords on a question of law is conclusive, and binds the House in subsequent cases—An erroneous decision can only be set aside by Act of Parliament—It is an inflexible rule that the House of Lords will not review its own decisions. (L. R., A. C., 375: 78 L. T., 361: 14 *Times* L. R., 360.)

1897, May 31. [307]
Mexborough (E. of) *v.* **Whitwood U. D. C.** Alleged forfeiture of lease by breach of covenants—Practice as to the discovery of documents and administration of interrogatories. (66 L. J., Q. B., 637: L. R., 2 Q. B., 111: 76 L. T., 765: 13 *Times* L. R., 443.)

1900, March 24. [308]
National Telephone Co. *v.* **St. Peter Port, Guernsey, Constables.** Suit by Telephone Company against Local Authority to recover damages for removing telephone wires stretched across a street without statutory authority—Held that the Action failed, the Local Authority being justified in removing the wires, and there being no allegation of any unnecessary damage in doing so. (69 L. J., P. C., 74: L. R., A. C., 317: 82 L. T., 398.)

1897, Aug. 10. [309]
Nottingham Corporation, In re. Charters dated 1399 and 1448—Held that the words of the grants did not entitle the Corporation to claim fines for recognizances estreated on the failure of accused persons to appear and take their trial at Assizes. (66 L. J., Q. B., 883: L. R., 2 Q. B., 502: 77 L. T., 210: [*Reg.* v. *Nottingham*] 13 *Times* L. R., 580.)

1901, Nov. 19. [310]
Pearks & Co. *v.* **Richardson.** "Sale of Food Act, 1875," § 3: "Companies Act, 1862," § 62—Summons for an offence against the Act served on an assistant at a country shop and not at the registered office of the Company in London—Service held bad—Conviction quashed. (71 L. J., K. B., 18: 85 L. T., 616: 66 J. P., 119.)

1898, Nov. 17. [311]
Perry Almshouses, In re. "Local Government Act, 1894," §§ 70, 75—A certain Charity held a Church of England Charity and therefore "ecclesiastical." (L. R., [1899] 1 Ch., 21: 79 L. T., 366: 15 *Times* L. R., 42: [*Ross Charity, In re*] 68 L. J., Ch., 67.)

1895, June 26. [312]
Reg. *v.* **Slade (1).** "Summary Jurisdiction Act, 1848," § 11: "Public Health (London) Act, 1891," § 5 (9)—The limit of 6 months in the former Act applies to proceedings for breach of a Closing Order under the latter Act; and therefore a conviction for such an offence, which imposes a fine in respect of every day during a period exceeding 6 calendar months, is bad. (64 L. J., M. C., 232: L. R., 2 Q. B., 247: 73 L. T., 343.)

1896, Nov. 7. [313]
Reg. *v.* **Smallman.** "Local Government Act, 1894," §§ 3, 5, 6, 81—Criminal Law—Embezzlement—An Assistant Overseer appointed by a Parish Council is properly described in an Indictment as the servant of the inhabitants of the parish. (66 L. J., Q. B., 82: L. R., [1897] 1 Q. B., 4: 75 L. T., 394: 13 *Times* L. R., 28.)

1898, April 30. [314]
Roper *v.* **Knott.** "Malicious Injuries to Property Act, 1861," § 52—A milk-carrier who damages his employer's milk, by adding water, with no intention of injuring his employer, but to make a profit for himself by increasing the bulk of the milk, is guilty of an offence under § 52—*Hall* v. *Richardson* [1889] disapproved of. (67 L. J., Q. B., 574: L. R., 1 Q. B., 868: 78 L. T., 594: 14 *Times* L. R., 383.)

1897, March 18. [315]
Southport, Mayor, *v.* **Birkdale U. D. C.** Local Act giving power to Justices to inflict fines where gas supplied by the Corporation to the Council of the adjoining District failed to reach a certain standard of illumination—Fines inflicted—Case stated for High Court—Held that the judgment of the High Court was a judgment in a "criminal cause or matter" within the "Judicature Act, 1873," § 47, and that there could therefore be no appeal to the Court of Appeal. (76 L. T., 318.)

1899, May. 11. [316]
Stoke P. C. *v.* **Price.** "Local Government Act, 1894," § 8 (1)—A Parish Council cannot bring an Action on behalf of inhabitants even to restrain interference with their access to a pump properly erected by the Council under § 8—The intervention of the Attorney-General is necessary. (68 L. J., Ch., 447: L. R., 2 Ch., 277: 80 L. T., 643.)

(2.) "CERTIORARI."

1896, Feb. 16. [317]
Reg. *v.* **Budden.** Conviction for breach of By-Laws—The Chairman of the prosecuting Authority left the Bench, and seated himself next the prosecuting solicitor—A Justice sent a note across to the Chairman, asking a question, which was replied to also by a note—Held that the incident, though injudicious, was not sufficiently serious to invalidate the decision—*Certiorari* to quash the conviction refused, but without costs. (60 J. P., 166.)

1901, Nov. 8. [317a]
Rex *v.* **Yorkshire W. R. J.J.** "Summary Jurisdiction Act, 1848," §§ 1, 2—Summons against a Board of Guardians for breach of Building By-Law of Urban Council—Summons returnable before there was time to convene a meeting of the defendant Board, whose Clerk was therefore unable to obtain instructions—Case called on in spite of protest by defendant's solicitor, and a conviction had—Conviction quashed on *Certiorari*, as

there was no evidence that a reasonable time had elapsed between the service of the summons and the hearing—*Reg.* v. *Smith* [1875] followed. (*Local Gov. Chron.*, 1901, p. 1202.)

(3.) COUNTY COURT.

1896, June 8. [318]
Hammersmith Vestry *v.* **Lowenfeld.** "Public Health (London) Act, 1891," §§ 11, 17: "Summary Jurisdiction Act, 1848," § 11—The 6 months' limitation of the latter Act in regard to the recovery of costs and expenses connected with a Nuisance Order also applies to a County Court Action under the former Act in respect of similar costs. (65 L. J., Q. B., 662: L. R., 2 Q. B., 278: 75 L. T., 182: 12 *Times* L. R., 459.) [Overruled by *Blackburn* v. *Sanderson* [1902].]

1901, May 2. [319]
National Telephone Co. *v.* **Tunbridge Wells Corporation.** "Telegraph Act, 1878," §§ 3, 4: "Telegraph Act, 1892," § 5—Execution of works in street by licensees of Postmaster-General—Consent of Local Authority given generally, but particular consent refused—Application by licensees to County Court, claiming a determination of a "difference"—Held that County Court had no jurisdiction because the Judge, when sitting in virtue of § 4 of the Act of 1878, sits as Judge, and not as an Arbitrator—Prohibition issued to Judge—The effect of § 5 of the Act of 1892 is to take away the jurisdiction of the Magistrate or County Court Judge prescribed by the Act of 1878. (85 L. T., 368: 17 *Times* L. R., 459.)

1896, Dec. 17. [320]
Ribble Joint Committee *v.* **Croston U. D. C.** "Rivers Pollution Act, 1876," §§ 3, 10, 20—County Court Order to a defendant requiring him to construct works necessary to stop flow of sewage into a river—Where such an Order is drawn up by consent and an Action is subsequently brought to recover penalties, the defendant cannot reopen the case on questions of fact, *e.g.* by attempting to show that part of the river comprised in the Order was tidal water, and therefore exempt under the Act. (66 L. J., Q. B., 348: L. R., [1897] 1 Q. B., 251.)

(5.) EVIDENCE.

1898, Dec. 19. [321]
Evans *v.* **Merthyr Tydfil U. C.** "Commons Act, 1893:" "Local Government Act, 1894:" "Metropolitan Commons Act, 1898:" "Commons Act, 1899"—Agreement for sale of commonable rights—Action for specific performance — Counter-claim — Finding of jury on trial of issue of fact—Motion for new trial—Admissibility of evidence of reputation. (68 L. J., Ch., 175: L. R., [1899] 1 Ch., 241: 79 L. T., 578.)

1901, Jan. 22. [322]
Hoare *v.* **Ritchie.** "Factory and Workshop Act, 1878," § 36—Statutory obligation to provide a fan, &c., to protect workpeople from inhaling dust—In proceedings for breach of this it is unnecessary to prove by evidence that any worker has sustained actual injury: it is enough to show that dust was generated to such an extent that its tendency was necessarily to injure health in course of time. (70 L. J., Q. B., 279: L. R., 1 Q. B., 434: 84 L. T., 54: 17 *Times* L. R., 212.)

1895, Jan. 15. [323]
Smith *v.* **Lister.** A manor map produced from the custody of the lord of the manor, and made in 1817 by a competent Surveyor, and used by parish officials for rating purposes, is receivable in evidence where a question of general right to the waste of a manor has arisen—Similarly a tithe map made in 1843 is also admissible. (64 L. J., Q. B., 154.)

(6.) INJUNCTION.

1894, April 4. [324]
Davis *v.* **Leicester Corporation.** "Municipal Corporations Act, 1882," §§ 108, 109—Corporation land offered for sale in lots for building purposes with restrictive conditions—Two lots purchased by plaintiff—Covenant by plaintiff in the conveyance to observe the conditions, but no covenant by Corporation to be bound by them as to unsold lots—Two lots subsequently sold as site for a church—Application by plaintiff for Injunction to restrain such user refused, for the Treasury had only approved what was in the four corners of his conveyance, and without their approval plaintiff could not sustain the larger outside right claimed by him. (63 L. J., Ch., 440: L. R., 2 Ch., 208: 70 L. T., 599: 10 *Times* L. R., 385.) [Referred to in *Holford* v. *Acton* [1898].]

1899, April 26. [325]
Jackson *v.* **Normanby Brick Co.** Pulling down buildings — Practice — An Injunction to require the performance of a certain act, such as removal of buildings, should now be made in a direct mandatory form, and not in the indirect form hitherto in use. (68 L. J., Ch., 407: L. R., 1 Ch., 438: 80 L. T., 482.)

1894, Dec. 18. [326]
Meux Brewery Co. *v.* **City of London Electric Lighting Co.** [Raised the same points as, and heard at the same time as, *Shelfer* v. *City of London Electric Lighting Co., q.v.*] (64 L. J., Ch., 216: L. R., 1 Ch., 287: 11 *Times* L. R., 137.) [Again before the Court, 64 L. J., Ch., 736: L. R., [1895] 2 Ch., 388: 73 L. T., 42.]

1894, Dec. 18. [327]
Shelfer *v.* **City of London Electric Lighting Co.** "Lord Cairns's Act" (21 & 22 Vict.,

c. 27): "Electric Lighting Act, 1882," §§ 10, 12, 17, 32—Action for nuisance by vibration from engines—*Per* A. L. Smith, L.J.:—"It may be stated as a good working rule that damages may be given in substitution for an Injunction in cases where there are found in combination the four following requirements: when the injury to the plaintiff's legal rights is (1) small, (2) capable of being estimated in money, (3) can be adequately compensated by a small money payment, and (4) where the case is one in which it would be oppressive to the defendant to grant an Injunction"—Injunction refused in the Court below; granted by the Court of Appeal. (64 L. J., Ch., 216: L. R., [1895] 1 Ch., 287: 72 L. T., 34: 11 *Times* L. R., 137.) [Again before the Court on June 12, 1895, on question of suspension of Order, 64 L. J., Ch., 736: L. R., [1895] 2 Ch., 388: 73 L. T., 42.]

(7.) JUSTICES.

1897, Nov. 3. [328]

Reg. *v.* **Gaisford.** A Justice attended a Vestry Meeting and proposed a resolution that S. should be called upon to remove a heap alleged to be a nuisance, from the side of a highway—On a summons taken out by the Surveyor against S. for not removing the nuisance, the Justice adjudicated upon the summons, and made an Order that the heap should be sold and the proceeds handed to the Surveyor to be applied to the repair of the highways—Held that the Order must be quashed, for that the Justice was disqualified from sitting, not only on account of the part he had taken at the Vestry Meeting, but also because he was pecuniarily interested as a ratepayer in the result. (61 L. J., M. C., 50: L. R., [1892] 1 Q. B., 381: 66 L. T., 24.)

1892, Jan. 26. [329]

Reg. *v.* **Henley.** "Salmon Fishery Act, 1865," §§ 27, 61—A member of a Board of Conservators, who was also a J.P., was present at a meeting and voted for a resolution to prosecute an offender—He afterwards sat as one of 3 Justices and heard the case when the offender was convicted—Member held disqualified from sitting to hear the charge by reason of having voted as aforesaid—Conviction quashed. (61 L. J., M. C., 135: L. R., 1 Q. B., 504: 66 L. T., 675.)

1895, Jan. 29. [330]

Reg. *v.* **Huggins.** "Merchant Shipping Act, 1854," § 361—In a summons against a person for continuing in charge of a ship after a qualified pilot has offered to take charge of her, another qualified pilot in the district in which the offence is alleged to have been committed has such an interest as disqualifies him from acting as a Justice, though by the nature of his employment he is not brought into competition with unqualified pilots. (64 L. J., M. C., 149: L. R., 1 Q. B., 563: 72 L. T., 19: 11 *Times* L. R., 205.)

1900, April 25. [331]

Reg. *v.* **Shiel.** "London Building Act, 1894," §§ 74, 150—A Magistrate ought not to be ordered to state a case on the ground that his decision was erroneous in point of law when he has decided it in accordance with a decision of the Queen's Bench Division on the same point, and from which there was no right of appeal. (82 L. T., 587: 16 *Times* L. R., 349.)

1902, March 14. [331*a*]

Rex *v.* **Tempest.** "Licensing Act, 1872," §§ 38, 60—Transfer of Licence—Justice holding brewery shares—Members of Town Council also Justices—Special circumstances. (66 J. P., 472.)

1899, Jan. 18. [332]

Vines *v.* **North London Collegiate Schools.** "Public Health (London) Act, 1891," § 115 (3)—A Justice applied to for a warrant to authorise entry on premises must be satisfied by information on oath not only that the right to demand entry exists under some provision of the Act, but that there is reasonable ground for desiring to exercise that right—It is not sufficient for the Sanitary Inspector to have a *bonâ fide* wish to make an examination of the premises. (63 J. P., 244.)

(8.) "MANDAMUS."

1896, May 19. [333]

Peebles *v.* **Oswaldtwisle U. D. C.** "Public Health Act, 1875," § 15—An Action for a *Mandamus* to compel the making of necessary sewers by a Local Authority survives to the executor of an owner of premises within the district, who dies after the commencement of the Action. (65 L. J., Q. B., 499: L. R., 2 Q. B., 159: 74 L. T., 721.)

(9.) "QUO WARRANTO."

1894, Nov. 2. [334]

Reg. *v.* **Williams.** "Metropolis Management Act, 1855," §§ 6, 54—Person acting as a member of Board or Vestry without being qualified by rating and occupation is liable to a penalty—Held that a member who was properly qualified at the time of his election did not cease to be a member before the expiration of his term of office because he had ceased to occupy a house in the parish; but he must not act—If he does, he becomes liable to the penalty—Rule for a *Quo Warranto* discharged. (64 L. J., M. C., 34: 43 W. R., 140: 11 *Times* L. R., 17.)

(10.) SESSIONS.

1898, April 27. [335]

Lodge *v.* **Huddersfield Corporation (2).** "Quarter Sessions Act, 1849," § 11: "Judicature Act, 1873," § 19—The entry of

judgment in an appeal at Quarter Sessions in accordance with the decision of a Divisional Court on a case stated under the Act of 1849 does not prevent an appeal against the decision to the Court of Appeal under the Act of 1873—*Peterborough* v. *Wilsthorpe* [1883] and *Holborn* v. *Chertsey* [1885] followed. (67 L. J., Q. B., 571: L. R., 1 Q. B., 859: 78 L. T., 582.)

(11.) TAXATION OF COSTS.

1902, July 21. [336]
Ambler *v.* **Bradford Corporation.** "Public Authorities Protection Act, 1895," § 1: "Electric Lighting Act, 1882"—The erection of Electric Light Works by a Municipal Corporation under a Provisional Order is an act done within § 1 of the Act of 1893, and the Corporation will be entitled to their costs as between solicitor and client, from a plaintiff where they obtain judgment in an Action brought against them for damages for injury caused by the said works—But the Act does not apply to appeals, and on an appeal the only costs allowed will be as between party and party. (71 L. J., Ch., 744: L. R., 2 Ch., 585: 87 L. T., 217: 66 J. P., 708: 18 *Times* L. R., 758.)

1901, Dec. 2. [337]
Brooks, Jenkins & Co. *v.* **Torquay Corporation and Newton Abbot R. D. C.** "Public Health Act, 1875," §§ 174, 297, 298: "Provisional Order Confirmation Act"—Firm of solicitors retained by resolutions not under seal to oppose the inclusion of a district in other adjacent districts—Seal subsequently affixed to resolutions—Transfers proposed carried out, and original district merged—Held that the solicitors were entitled to recover from the New Authority their costs, which in the first instance would have been recoverable from the original Authority; and that the "Borough Funds Act, 1872," § 8, was not applicable to vitiate the liability. (71 L. J., K. B., 109: L. R., [1902] 1 K. B., 601: 85 L. T., 785: 66 J. P., 293.)

1895, June 29. [338]
East Stonehouse L. B. *v.* **Victoria Brewery Co.**—Action for fouling water in a public reservoir—Costs of photographs and numerous witnesses allowed by Taxing Master—Refusal by Court to interfere with Taxing Master's discretion. (73 L. T., 54.)

1900, Jan. 31. [339]
Henderson *v.* **Merthyr Tydfil U. C.** "Solicitors' Act, 1870," §§ 4, 5—A Local Authority being a successful party to legal proceedings is entitled to recover solicitor's profit costs in respect of the services of its solicitor, although the latter is paid a fixed salary, provided that the amount charged is not disproportionate to the amount of the Clerk's salary, having regard to the work done. (68 L. J., Q. B., 335: L. R., 1 Q. B., 434: 48 W. R., 332.)

1900, Aug. 2. [340]
Malvern U. D. C. *v.* **Malvern Link Gas Co.** Sale of Gas-works—Agreement that costs were to be taxed—Company held entitled to costs as between solicitor and client. (83 L. T., 326.)

1894, Jan. 16. [341]
Reg. *v.* **London J.J. (2).** The Queen's Bench Division has jurisdiction upon making absolute a Rule *Nisi* for a Prohibition to give costs to a successful applicant. (63 L. J., Q. B., 301: L. R., 1 Q. B., 453: 70 L. T., 148: 10 *Times* L. R., 189.)

1895, April 1. [342]
Reg. *v.* **London J.J. (3).** "Michael Angelo Taylor's Act, 1817," § 82: "Metropolitan Streets Act, 1862," § 73—Where land has been taken compulsorily for widening a street, and the owner's compensation has been assessed by a Jury, he is not entitled to be paid by the Local Authority his costs of the trial. (64 L. J., M. C., 186: L. R., 1 Q. B., 881: 72 L. T., 564.)

1900, Jan. 29. [343]
Reg. *v.* **Stoke Parish Council.** "Local Government Act, 1893," § 11—Action in the Chancery Division—*Mandamus* to Council to issue precept to Overseers for payment of costs of the Action—Where a Council becomes liable for legal costs which exceed a 3*d.* rate, but do not exceed a 6*d.* rate, the Court will assume, in the absence of evidence to the contrary, that the Parish Meeting consented to the liability, and will order Council to issue precept to Overseers to pay the amount. (82 L. T., 198: 64 J. P., 343.)

1900, March 17. [344]
South Mimms R. D. C. *v.* **Barnet U. D. C.** "Local Government Act, 1888," § 62 (2)—Part of one district transferred to another by Local Government Board Order—Decision by Arbitrator as to costs of award, but no mention of costs of reference—Held that it was too late to reopen the matter. (82 L. T., 421.)

1896, May 18. [345]
West Ham Union *v.* **St. Matthew's, Bethnal Green, Churchwardens (2).** "Poor Law (Payment of Debts) Act, 1859," §§ 1, 4—Where a judgment of the House of Lords directs payment of the costs of an appeal, a debt in respect of such costs does not arise until the amount is certified by the Clerk of the Parliaments—The House of Lords has jurisdiction over the costs of all appeals to the House—The time limited by the Act runs

from the date of the certificate, and not from the date of the Order. (65 L. J., M. C., 201: L. R., A. C., 477: 75 L. T., 286: 12 *Times* L. R., 423.)

46. Liability for Accidents, &c.

1893, Dec. 6. [346]
Bowen *v.* **Anderson.** Injury to plaintiff by defective coal-plate—Conflicting evidence as to whether the accident was due to default of tenant in securing the plate, or to the flag-stone being defective, or to the presence of clay which prevented plate going into place—Weekly tenancy—Necessity for notices—Premises out of repair—A weekly tenancy is not determined at the end of each week—The continuance of the tenant's occupation on the expiration of each week does not render the landlord liable for defects then existing as if there had been a re-letting. (L. R., [1894] 1 Q. B., 164: 42 W. R., 286.)

1897, July 10. [347]
Burgess *v.* **Morris.** "Metropolis Management Act, 1855," § 207—An omnibus-driver is liable for accidentally breaking a street lamp without any negligence on his part, although the accident may have been caused by the lamp-post projecting to some extent over the roadway. (77 L. T., 97: 61 J. P., 553.)

1901, Dec. 18. [348]
Canadian Pacific Railway *v.* **Roy.** A Corporation acting under statutory powers is not liable in damages for injury done in the due exercise of these powers without negligence. (71 L. J., P. C., 51: 86 L. T., 127.)

1894, July 11. [349]
Chapman *v.* **Fylde Waterworks Co.** "Water-Works Clauses Acts, 1847, 1863"—Service-pipe from street main into a house with stop-cock in a guard-box let into the pavement—Lid of guard-box being out of repair occasioned injury to the plaintiff—Held that Water Company, who alone had power to break up the street to repair the box, were responsible for its repair. (64 L. J., Q. B., 15: L. R., 2 Q. B., 599: 71 L. T., 539: 10 *Times* L. R., 580.)

1900, Feb. 12. [350]
Crystal Palace Gas Co. *v.* **Idris.** "Gasworks Clauses Act, 1847," § 20—Damage to lamp-post by negligent driving—Action in County Court held maintainable, as the Section is not exclusive, though it only mentions "two Justices or the Sheriff." (82 L. T., 200: 64 J. P., 452: 16 *Times* L. R., 180.)

1892, Jan. 11. [351]
Gallsworthy *v.* **Selby Dam Commissioners.** Local Act—Where a Local Act has incorporated Commissioners and given them rating powers, they are bound, unless the contrary is shown clearly by their Act, to levy a Rate to satisfy a liability incurred by the negligence of their servants; and this notwithstanding that they have already levied Rates up to the limits allowed for capital expenditure by their Act. (L. R., 1 Q. B., 348: 66 L. T., 17: [*Reg.* v. *Selby*] 56 J. P., 356: 8 *Times* L. R., 198.)

1897, March 10. [352]
Gibson *v.* **Plumstead Burial B.** Spiked fence 4½ ft. high at side of highway—Injury to horse which fell against fence—Fence had stood for 7 years—No previous evidence of accident — Held there was no sufficient evidence that fence was a nuisance. (13 *Times* L. R., 373.)

1896, Aug. 5. [353]
Goodson *v.* **Sunbury Gas Co.** "Gasworks Clauses Act, 1847," §§ 11, 29—Where a Gas Company, after laying down a main in a public highway, fails to reinstate the road-way properly, and leaves it in a condition amounting to a public nuisance, in consequence of which some person suffers special damage, the Company is liable to such person, notwithstanding § 11. (75 L. T., 251: 60 J. P., 585.)

1893, March 15. [354]
Graham *v.* **Newcastle-upon-Tyne, Mayor.** "Highway Act, 1835," § 109: "Public Health Act, 1875," § 264. (L. R., 1 Q. B., 643: 69 L. T., 6: 9 *Times* L. R., 343.) [Effect of decision set aside by the "Public Authorities Protection Act, 1893," which repeals the above-named sections.]

1894, Feb. 8. [355]
Green *v.* **Chelsea Water Co.** Bursting of water-main—Plaintiff's premises flooded—Laying of main having been authorised by Parliament, and no negligence having been proved, held that plaintiff could not recover—*Rylands* v. *Fletcher* [1868] distinguished. (70 L. T., 547: 10 *Times* L. T., 259.)

1896, June 16. [356]
Hall *v.* **Chelsea Guardians.** Accident to chimney-sweep using a defective ladder belonging to defendants—Question whether it was his duty to use it—Verdict for plaintiff: damages £300. (*Loc. Gov. Chron.*, 1896, p. 651.)

1896, Feb. 17. [357]
Hardaker *v.* **Idle D. C.** A Local Authority who employ a contractor to do work which they are empowered by Statute to execute, and which is likely to prove dangerous to others, are bound to see that the work is properly carried out—They are not relieved from liability for injuries caused by the negligent execution of the work by the fact of having

employed a contractor. (65 L. J., Q. B., 363: L. R., 1 Q. B., 335: 74 L. T., 69: 12 *Times* L. R., 207.)

1900, Nov. —. [358]
Henson *v.* **Foulson.** A person who allows clippings from a yew hedge to lie on the roadside is liable in damages to the owner of cattle which die from eating such clippings. (Grantham County Court: Judge W. Wood.) (M.S.)

1898, Nov. 21. [359]
Hill *v.* **Tottenham U. D. C.** When a public body takes upon itself the making-up of a road, such work being of itself, unless carefully done, likely to be dangerous to the public, a duty is cast upon such body to see that no dangerous obstructions are allowed to exist likely to harm passengers using the road—That duty is not evaded by employing a contractor to carry out the work—*Penny* v. *Wimbledon* [1899] followed. (79 L. T., 495: 15 *Times* L. R., 53.)

1899, July 17. [360]
Holliday *v.* **National Telephone Co.** Defendants lawfully engaged in laying telephone wires—Contractor employed by defendants' foreman to do plumbing work—Injury to plaintiff by plumbers' negligence—Held that under the circumstances the defendants were liable in damages to the plaintiff. (68 L. J., Q. B., 1016: L. R., 2 Q. B., 392: 81 L. T., 252: 15 *Times* L. R., 483.)

1894, May 2. [361]
Jeffery *v.* **St. Pancras Vestry.** "Metropolis Management Act, 1862," § 106—Steam-roller—An owner of such is liable in damages if it is a nuisance to a person using the highway — Compliance with the Statute and absence of negligence do not constitute a defence to an Action—The question whether a steam-roller on a highway is a nuisance dangerous to the public is one of fact, depending upon the circumstances of each particular case. (63 L. J., Q. B., 618.)

1901, Feb. 18. [362]
Lambert *v.* **Lowestoft Corporation.** Apart from negligence a Local Authority is not liable for injury done to a passer-by by reason of the defective construction of a sewer under a highway. (70 L. J., K. B., 333: L. R., 1 Q. B., 590: 84 L. T., 237: 65 J. P., 326: 17 *Times* L. R., 273.)

1893, Nov. 3. [363]
London General Omnibus Co. *v.* **Booth.** Accident caused by Salvation Army Band—A horse made restive by a band, kicked and injured a horse belonging to plaintiffs in a public street—Action for damages—Held that in the absence of evidence to show the relationship between members of the band and defendant, it could not be inferred that the members were servants of the defendant, or acting under his authority. (63 L. J., Q. B., 244: 10 *Times* L. R., 34.)

1893, Nov. 24. [364]
Oliver *v.* **Horsham L. B.** The plaintiff sued an Urban Authority for compensation for injuries sustained by his horse in stumbling over a grating in a public road—The grating was properly inserted in the road, and was in proper repair, but the surface of the road adjacent had been worn away, and consequently the grating projected above the line of the road—Held that the accident arose from the neglect of the defendants to keep the road in repair; that no Action lay for such neglect; and that the liability of the defendants was not enlarged by the fact that they combined in themselves the characters of Road Authority and Sewer Authority—*Kent* v. *Worthing* [1882] overruled: *Bathurst* v. *Macpherson* [1879] distinguished. (63 L. J., Q. B., 181: L. R., [1894] 1 Q. B., 332: 70 L. T., 206: 10 *Times* L. R., 98.)

1899, May 4. [365]
Penny *v.* **Wimbledon U. C.** "Public Health Act, 1875," § 150—A contractor employed by Council to make up a highway negligently left on the road a heap unlighted and unprotected—Injury to a person walking in the dark, who fell over the heap—Action against Council and contractor jointly — Council held liable, because the contractor's negligence was not casual or collateral to his employment — Where two defendants are sued and put in separate defences and one has paid money into Court exceeding the amount ultimately recovered, the other cannot avail himself of his co-defendant's payment as a satisfaction of the cause of action against himself, and on failure of his defence plaintiff is entitled to judgment against him for costs. (68 L. J., Q. B., 704: L. R., 2 Q. B., 72: 80 L. T., 615: 15 *Times* L. R., 348.)

1896, Aug. 7. [366]
Smith *v.* **King's Norton R. D. C.** Action for damages resulting from alleged defects in a sewer ventilating shaft carried into a dwelling-house, which defects were alleged to have caused the death of the occupier from blood-poisoning induced by sewer-gas—Verdict for plaintiff, the occupier's executor: damages £2875 — Principle of calculation. (At *Nisi Prius.*) (*Loc. Gov. Chron.*, 1896, p. 947.)

1895, May 10. [367]
Sydney Municipal Council *v.* **Bourke.** Action against Municipal Corporation for damages for the death of plaintiff's husband—Alleged negligence on the part of the Corporation in allowing a street to fall in a disrepair—Held

that there was no statutory obligation on the Corporation to repair the street, and that the plaintiff had no right of action. (64 L. J., P. C., 140: L. R., A. C., 433: 72 L. T., 605: 11 *Times* L. R., 403.)

1893, Nov. 24. [368]

Thompson *v.* **Brighton, Mayor.** Man-hole and sewer-grating properly inserted in highway by Local Authority—Both in good repair, but they projected in consequence of the non-repair of the highway by the Local Authority, which was also the Sewer Authority—Injury to the plaintiff's horse—Held that the only breach of duty was in not repairing the highway, and for this no action would lie. (63 L. J., Q. B., 181: L. R., [1894] 1 Q. B., 332: 70 L. T., 206: 10 *Times* L. R., 98.) [See *Oliver* v. *Horsham*, *ante*, p. 37.]

1899, March 28. [369]

Thompson *v.* **London C. C.** Action against Council for negligently excavating near plaintiff's house and thereby causing damage—Defendants denied liability, and attributed the damage to the negligence of a Water Company—Application by plaintiff to add the Water Company as defendants—Held that as the causes of Action against the Council and the Water Company were in respect of separate torts, though the resulting damage might be the same in each case, the Water Company could not be joined as defendants. (68 L. J., Q. B., 625: L. R., 1 Q. B., 840: 80 L. T., 512.)

1899, June 9. [370]

Victoria Corporation *v.* **Patterson.** British Columbia Law—Bridge taken over by Corporation—Accident owing to break-down of the bridge when a tram-car containing the deceased was running—Held that the finding of the Jury that an act done by an officer of the Corporation had materially weakened the bridge, which afterwards broke, amply justified a verdict against the Corporation—The liability, if any, of the Tramway Company for having passed an excessive weight over the bridge, not having been raised before the Jury, could not be raised on the appeal against the original verdict. (68 L. J., P. C., 128: L. R., A. C., 615: 81 L. T., 270.)

1900, Nov. 8. [371]

Whyler *v.* **Bingham R. D. C.** Liability of Highway Authority—Misfeasance—Removal of fence voluntarily erected for protection of passengers—"Fatal Accidents Act, 1846" ("Lord Campbell's Act")—Where a Highway Authority under no obligation to do so erects a fence to guard a dangerous ditch, it is an act of misfeasance to remove the fence so as to restore the highway to an unprotected condition—Action for compensation held maintainable. (70 L. J., Q. B., 207: L. R., [1901] 1 Q. B., 45: 83 L. T., 652: 64 J. P., 771: 17 *Times* L. R., 23.)

47. Libel.

1895, April 9. [372]

Andrewes *v.* **Nott-Bower.** Privileged Report—Borough Justices, to facilitate business, ordered Head Constable to issue to persons having business at Licensing Sessions a copy of his Report, stating his objections to the renewal of licences—Held that such publication was privileged, and that in the absence of express malice an Action for libel would not lie against the Head Constable for defamatory statements in the grounds of objection. (64 L. J., Q. B., 536: L. R., 1 Q. B., 888: 72 L. T., 530: 11 *Times* L. R., 350.)

1895, Feb. 20. [373]

Booth *v.* **Arnold.** Words imputing dishonesty or malversation in a public office of trust are actionable *per se*, though the office be not one of profit, and special damage need not be proved—*Semble*, that a power of amotion from a corporate office exists with regard to the Chairman of an Improvement Committee of a Town Council, and that dishonesty and malversation on his part is an indictable offence. (64 L. J., Q. B., 443: L. R., 1 Q. B., 571: 11 *Times* L. R., 246.)

1894, April 5. [374]

Hebditch *v.* **MacIlwaine.** Libel on Guardian of the Poor—A libel is not privileged because the person making the same honestly and reasonably believes that the person to whom it was made had an interest or duty in the matter, if as a fact such person has not such interest or duty. (63 L. J., Q. B., 587: L. R., 2 Q. B., 54: 70 L. T., 826: 10 *Times* L. R., 387.)

48. Licences.

1899, May 31. [375]

Brearley *v.* **Morley.** "Public Health Amendment Act, 1890," § 51—Piano in the smoking-room of an inn habitually played on by persons using the inn—No payments made for admission to the room nor to performers or singers—Held that the room was not kept or used for public singing or music so as to require a licence. (68 L. J., Q. B., 722: L. R., 2 Q. B., 121: 80 L. T., 801: 15 *Times* L. R., 392.)

1896, Nov. 10. [376]

Ellis *v.* **Nott-Bower.** Local Act—Six bicycles in procession with advertising placard attached to each held advertising vehicles, and therefore requiring the licence of the Local Authority. (60 J. P., 760: 13 *Times* L. R., 35.)

1900, June 14. [377]

Eveleigh *v.* **Mairs.** "Locomotives Act, 1898"—A locomotive not required to be licensed under this Act is sufficiently registered if

registered in the county in which its owner's place of business is situated, and need not be re-registered to a county to which it is sent to do work. (MS.)

1896, Feb. 3. [378]
Hides *v.* **Littlejohn.** "Towns Improvement Clauses Act, 1847," § 126: "Local Government Act, 1858" [repealed], §§ 12, 20, 45—Partial disuse of slaughter-house — Held that under the circumstances there had been such a continuous use as to exempt the owner from losing the privileges conferred by § 126 of the Act of 1847. (74 L. T., 24: 60 J. P., 101.)

1897, July 31. [379]
London C. C. *v.* **Wood.** "Highways Act, 1878," § 32—A steam-roller crossing one county to perform work in another is, whilst passing along highways on its journey, being "used," and must have a licence in cases where licences are prescribed. (66 L. J., Q. B., 712: L. R., 2 Q. B., 482: 77 L. T., 312: 13 *Times* L. R., 559.)

1893, Jan. 25. [380]
Queen (The) *v.* **Southport, Mayor, and Morris.** "Merchant Shipping Act, 1854," § 2—An electric launch used for pleasure trips on an artificial lake is not within the Act so as to need a passenger certificate. (62 L. J., M. C., 47: 68 L. T., 221: 9 *Times* L. R., 209: [*Southport* v. *Morriss*] L. R., [1893] 1 Q. B., 359: 57 J. P., 231.)

1896, June 5. [381]
Reg. *v.* **Yorkshire (W.R.) C.C. (2).** "Theatres Regulation Act, 1843"—On an application for a theatre licence a Licensing Committee may take into consideration, if they please, the fact that a licensee can thereby obtain an Excise Licence for the sale of liquors under 5 & 6 Will. IV., c. 39—Refusal of such an application, unless the applicant undertakes not to apply for an Excise Licence, is not a ground for interfering with a Committee's discretion. (65 L. J., M. C., 136: L. R., 2 Q. B., 386: 75 L. T., 252: 12 *Times* L. R., 454.)

1896, Dec. 9. [382]
Umfreville *v.* **London C. C.** "Public Health (London) Act, 1891," §§ 20, 141—A person carrying on the business of a farmer and keeping cows in a shed on his premises, is not "a person carrying on the business of a dairyman" so as to require a licence. (66 L. J., Q. B., 177: 75 L. T., 550: 13 *Times* L. R., 109.)

49. "Lighting Act, 1833."

1897, March 17. [383]
Crayford Overseers *v.* **Rutter.** "Lighting Act, 1833," § 33—The question whether land with buildings on it should be rated as "land" or as "buildings," or as "property other than land," depends upon whether the buildings are accessory to the land or the land to the buildings—Where buildings are erected on land for its more convenient use as a brickfield, the buildings are to be treated as accessory to the land, and the property rated at the lower assessment unless the buildings are capable of separate assessment. (65 L. J., Q. B., 506: 76 L. T., 392: 13 *Times* L. R., 300.)

1893, May 8. [384]
Reg. *v.* **Reynolds (1).** "Lighting Act, 1833"—On summons for non-payment of a lighting Rate, Overseers are not obliged to prove that the Act has been duly adopted. (L. R., 2 Q. B., 75: 69 L. T., 321: 57 J. P., 356: [*Reg.* v. *Frodsam*] 62 L. J., M. C., 120: 9 *Times* L. R., 456.)

1894, Nov. 15. [385]
Thursby *v.* **Briercliffe-with-Extwistle Churchwardens.** "Lighting Act, 1833," § 33—Coal-mines are not "land," but are "property (other than land) rateable to the relief of the poor," and are therefore rateable on the higher scale, though they can derive no benefit from the Rate. (64 L. J., M. C., 66: L. R., [1895] A. C., 32: 71 L. T., 849: 11 *Times* L. R., 48.)

50. Local Government Board, &c.

1902, March 14. [386]
Brooks *v.* **Dolby.** "Poor Law Amendment Act, 1849," § 9—The determination of an appeal to the Local Government Board from a disallowance and surcharge by a District Auditor means the final determination; and the Board may, on the consent of all the parties, reconsider their determination; and the time for enforcing the Auditor's certificate runs from the determination on the reconsideration. (66 J. P., 533.)

1900, Dec. 7. [386*a*]
Reg. *v.* **Local Government Board.** "Poor Law Amendment Act, 1834," § 32: "Local Government Act, 1888," §§ 24, 26—Annual sums payable to Guardians by County Council under the last-named Act are "property" within the former Act which the Local Government Board can apportion when a parish is separated from a Union—And this carries with it power to prescribe in the Order subsequent annual payments. (70 L. J., Q. B., 272: L. R., [1901] 1 Q. B., 210: 83 L. T., 648: 17 *Times* L. R., 120.)

51. Markets.

1894, Feb. 23. [387]
Birmingham, Mayor *v.* **Foster.** Local Market Act giving Corporation exclusive powers to carry on a pig market—Defendants an association which had set up a private sale-yard

for the disposal of pigs—Held that their proceedings were not personal, or individual, or protected by the saving in the Local Act—Injunction granted. (70 L. T., 371: 11 *Times* L. R., 309.)

1893, Feb. 4. [388]
Collins *v.* **Cooper.** Local Act—C., the occupier of a piece of land within the town of W., allowed on one of the usual Fair days several people to erect roundabouts and swings—Summons for unlawfully permitting a Fair on his land contrary to the Act—C. did not charge rent, and there was no buying or selling of goods on the land—Held that this was holding a Fair, and that an offence against the Local Act had been committed. (68 L. T., 450: 9 *Times* L. R., 250: [*Cooper* v. *Collins*] 57 J. P., 248.)

1900, Jan. 30. [389]
Llandudno U. C. *v.* **Hughes.** "Markets and Fairs Clauses Act, 1847," § 13—A licensed hawker, though selling goods in respect of which a licence is not required, is nevertheless a "licensed hawker" within § 13, and therefore is not liable to the penalty imposed upon every person "other than a licensed hawker," who after the market-place is open sells within the prescribed limits articles in respect of which tolls are by the Special Act authorised to be taken in the market. (69 L. J., Q. B., 303: L. R., 1 Q. B., 472: 82 L. T., 147: 64 J. P., 357: 16 *Times* L. R., 171.)

1902, March 24. [390]
Newcastle (Duke of) *v.* **Worksop U. C.** Franchise—Fair—Market—Fair and market held on same day—Merger—Change of days for which a charter of Edward III. was granted—Tolls—Stallage—Held, *inter alia*, that tolls could not be recovered in respect of days not named in the charter. (71 L. J., Ch., 487: L. R., 2 Ch., 145: 86 L. T., 405: 18 *Times* L. R., 472.)

1900, Jan. 15. [391]
Newton-in-Makerfield U. C. *v.* **Lyon.** Local Act—Market—Toll—A mineral-water cart used for delivery of goods from a distant manufactory to customers in an Urban District is not liable to a toll imposed on every cart "used for exposing, or in which shall be exposed for sale any article, commodity, or thing" brought into any public market-place or public street—And this though the driver of the cart, calling on a regular customer, had to ask if she wanted any goods. (69 L. J., Q. B., 230: 81 L. T., 756.)

1891, June 12. [392]
Spurling *v.* **Bantoft.** "Markets and Fairs Clauses Act, 1847:" "Public Health Act, 1875," § 166—A Corporation granted leases of land within their borough, with covenants for quiet enjoyment, to appellant, who used the land for periodical sales of cattle—Subsequently, Corporation opened a public market and established tolls—Appellant was convicted of an infringement of market by selling bullocks without paying toll—Held that the exemption in § 166 referred to a franchise, and did not apply to appellant, who had not under his leases acquired any vested right to sell cattle in his sale-yard, so that Corporation could not interfere with him—Conviction upheld—The words, "within their district," in § 166 constitute the District of the Local Authority the "prescribed limits," as these words in § 13 of the Act of 1847 are intended to mean. (60 L. J., Q. B., 745: L. R., 2 Q. B., 384: 65 L. T., 584.)

1901, March 1. [393]
Stevens *v.* **Chown.** Local Act confirming ancient market rights, with some modern additions—Where an ancient market is regulated by an Act of Parliament an Action at law will lie for infringement of market, notwithstanding that there are provisions giving a summary remedy before a special tribunal. (70 L. J., Ch., 571: 84 L. T., 796: 17 *Times* L. R., 313.)

1892, July 4. [394]
White *v.* **Yeovil, Mayor.** "Markets and Fairs Clauses Act, 1847," § 13—A baker living outside the boundaries of a borough, who, in a regular course of dealing, delivers bread to customers inside the borough from a cart, is not guilty of the offence of exposing for sale an article in respect of which tolls are authorised to be taken within prescribed limits so as to constitute an infringement. (60 L. J., M. C., 213.)

1895, July 31. [395]
Woolwich L. B. *v.* **Gardiner.** "Market and Fairs Clauses Act, 1847," § 13: "Pedlars Act, 1871," §§ 3, 6: "Pedlars Act, 1881," § 2—A certificated pedlar is entitled to the statutory exemptions from the penalty for selling tollable articles within market limits only so long as he is acting as a pedlar within the definition in § 3 of the Act of 1871—Therefore a certificated pedlar using a horse and cart who sells, &c., is liable to penalty. (64 L. J., M. C., 248: L. R., 2 Q. B., 497: 73 L. T., 218.) [Referred to in *Llandudno* v. *Hughes* [1900].]

52. Minute Book.

1897, Dec. 15. [396]
Reg. *v.* **Wimbledon U. D. C.** "Burial Act, 1852," §§ 16, 17—An application by a ratepayer to inspect minutes and account-books of the Board was refused, on the ground that it was not made *bonâ fide*, but for an indirect purpose. (77 L. T., 599: 14 *Times* L. R., 146.)

53. Mortgage.

1891, Jan. 14. [397]
Parker, In re: Wignall *v.* **Parke.** Summons by Executor—Local Acts—A Municipal Corporation, under the provisions of certain Acts which imposed on them the duty of supplying their town with water, borrowed money on mortgage of the rents, rates, and works—Held that the intention of the Acts was that the water-works should, notwithstanding the mortgages authorised, continue as a going concern under the management of the Corporation; and the mortgages must be construed as mortgages of the general undertaking, and not as creating an interest in land within the meaning of the "Mortmain Acts:" and therefore the mortgage debt of the testator was held to be pure personalty. (60 L. J., Ch., 195: L. R., 1 Ch., 682: 64 L. T., 257: 7 *Times* L. R., 200.)

54. Notices.

1897, May 11. [398]
Firth *v.* **Staines.** "Metropolis Management Act, 1855," §§ 58, 85: "Metropolis Management Act, 1862," § 31—Notice served under § 85 on an owner to put a drain into proper condition, the proceedings being taken by the Public Health Committee appointed under § 58—Held that the previous approval of the Vestry is not necessary for the authorisation of such notice, provided that the action taken by the Committee can properly be ratified by the Vestry. (66 L. J., Q. B., 510: L. R., 2 Q. B., 70: 76 L. T., 496: 13 *Times* L. R., 394.)

1894, April 14. [399]
Reg. *v.* **Mead** (1). "Public Health (London) Act, 1891," § 128—A summons to answer a complaint of a nuisance is good in form, though only addressed to the owner of named premises—Such a summons is a "document" within § 128, and may be properly served by delivery to some person on the premises. (63 L. J., M. C., 128: L. R., 2 Q. B., 124: 70 L. T., 766: 10 *Times* L. R., 413.)

1898, March 4. [400]
Robinson *v.* **Sunderland, Mayor.** "Public Health Act, 1875," § 36—Notice to plaintiff that his house was without a sufficient water-closet, and that if it were not provided Local Authority would enter and do the work—Action for Injunction to restrain Local Authority from entering—Held that the notice was bad, on the ground that it did not allow the owner to comply with it by providing any other "sufficient" water-closet than that specified—*Semble*, that it might be bad also for leaving out the words, "earth-closet or privy," which, according to the Section, must be wanting at the premises before notice can be given. (78 L. T., 194.)

1896, Nov. 12. [401]
Walthamstow U. D. C. *v.* **Henwood.** "Public Health Act, 1875," § 267—To prove service of notice by post it must be shown that the letter was "prepaid"—An affidavit containing no statement to this effect is insufficient as evidence of service. (66 L. J., Ch., 31: L. R., [1897] 1 Ch., 41: 75 L. T., 375.)

55. Nuisance.

(3.) Noxious Trades.

1900, Dec. 18. [402]
Attorney-General *v.* **Cole.** Tallow-melting carried on in a reasonable manner and with special precautions taken to avoid a nuisance to neighbours—Held, nevertheless, that as there was a nuisance in fact, therefore it must be restrained—*Reinhardt* v. *Mentasti*, [1889] 42 Ch. D., 685, and *Bamford* v. *Turnley* [1860], explained and commented on. (L. R., [1901] 1 Ch., 205: 83 L. T., 725.)

1895, May 6. [403]
Bird *v.* **St. Mary Abbott's, Kensington, Vestry.** "Public Health (London) Act, 1891," §§ 2, 4, 21—§ 4 only applies to classes of nuisances enumerated in § 2, and not to offensive trades dealt with by § 21—Service of a notice requiring the abatement of a nuisance is not a condition precedent to the jurisdiction of a Magistrate to hear a complaint of a nuisance from an offensive trade. (64 L. J., M. C., 215: L. R., 1 Q. B., 912: 72 L. T., 599.)

1899, Nov. 1. [404]
London C. C. *v.* **Hirsch.** "Public Health (London) Act, 1891," §§ 19, 142—Order that the business of a gut-scraper should be declared an offensive business not to be carried on anew without the sanction of the Local Authority—Held that the preparation of sheep's intestines to be used as sausage casings was not within the Order, which applied only to the scraping of guts to be used in the manufacture of catgut. (81 L. T., 447: 63 J. P., 823.)

(4.) Smoke.

1901, Aug. 2. [405]
Chester, Dean and Chapter, *v.* **Smelting Corporation.** Injury to trees and crops by smoke and effluvia—Held that though the nuisance had ceased, the plaintiffs were entitled to an Injunction to restrain its continuance, and to an inquiry into damages—*Dunning* v. *Grosvenor Dairies* [1900] not followed. (85 L. T., 67: 17 *Times* L. R., 743.)

1899, Dec. 5. [406]
Hilton *v.* **Hopwood.** "Public Health Act, 1875," § 105—Complaint of nuisance by

black smoke from factory chimney alleged to have done damage to shrubs 6 miles distant—Evidence that injury had been done to complainant's property on various occasions, but no evidence that smoke had reached her property on the dates specified in the complaint—Held that complainant was not a "party aggrieved." (*Loc. Gov. Chron.*, 1899, p. 137.)

1898, Jan. 20. [407]
Millard *v.* **Wastall.** "Public Health Act, 1875," §§ 91 (7), 94, 96—A notice to abate a smoke nuisance need not specify the remedial works required. (67 L. J., Q. B., 277: L. R., 1 Q. B., 342: 77 L. T., 692.)

1901, Nov. 9. [408]
Queen Anne's Mansions Co. *v.* **Westminster.** "Public Health (London) Act, 1891," § 24—Nuisance—Black Smoke—A chimney serving furnaces in a block of residential flats which heat boilers the steam generated in which is used for cooking, whilst the generation of electricity for the lighting and the heating of the staircases and passages are subsidiary uses, is not the chimney of a private dwelling-house—The proviso in the above Section only applies to the offence created by sub-section (*a*), and not to that created by sub-section (*b*)—*Weekes* v. *King* [1885] followed. (*Loc. Gov. Chron.*, 1902, p. 34.)

1901, May 7. [409]
South Eastern & Chatham Railway Co. *v.* **London C.C.** "Railways Clauses Consolidation Act, 1845," § 114: "Regulation of Railways Act, 1868," § 19—Appellants were convicted for allowing certain locomotives to emit black smoke for more than 3 minutes on various occasions—Evidence was given that the coal used was a smoky sort, but no evidence was given that the locomotives were not constructed on the principle of consuming their own smoke—Conviction upheld under the above-cited Sections. (84 L. T., 632: 65 J. P., 568.)

1901, May 6. [410]
South London Electric Corporation *v.* **Perrin.** "Public Health (London) Act, 1891," § 24—Nuisance from Black Smoke—10 complaints in respect of nuisance arising from a chimney sending forth black smoke on various days and for various periods of time, some of minutes, some of hours, heard together—Held that the Magistrate was justified in holding that on each of the days the smoke was sent forth in such a quantity as to be a nuisance, though there was no evidence that the smoke was a nuisance to any particular person or property. (70 L. J., K. B., 643: L. R., 2 K. B., 186: 84 L. T., 630: 17 *Times* L. R., 475.)

(5.) VARIOUS.

1895, Dec. 3. [411]
Attorney-General *v.* **Stone.** "Public Health Act, 1875," § 107—Action against landowner for letting land for gipsy encampment in vans and tents, whereby nuisance was caused owing to defective sanitary arrangements—Injunction granted against the user of the land in such a way as to be a nuisance or injurious to the health of the neighbourhood. (12 *Times* L. R., 76.)

1897, Feb. 18. [412]
Attorney-General *v.* **Tod-Heatley.** Vacant Land surrounded by hoarding—Hoarding broken down, and land used by public for deposit of refuse, causing nuisance—Held that the owner was liable at Common Law to prevent his land being used so as to be a public nuisance—Injunction granted. (66 L. J., Ch., 275: L. R., 1 Ch., 560: 76 L. T., 174: 13 *Times* L. R., 220.)

1899, May 19. [413]
Brown *v.* **Dunstable Corporation.** "Public Health Act, 1875," § 21—A Local Authority cannot prevent a householder from exercising his right of connecting his drains with the public sewers merely because such sewers discharge on private land, and a nuisance on such land will be caused—Consequently, Injunction applied for by landowner against Local Authority to restrain fresh connections being made with the sewers, refused—Plea by defendants of a lost grant by plaintiff's predecessors in title permitting inhabitants to drain on to the land held not to be presumed, though there was a long-continued practice so to drain. (68 L. J., Ch., 498: L. R., 2 Ch., 378: 80 L. T., 650: 15 *Times* L. R., 386.)

1897, May 24. [414]
Fulham Vestry *v.* **London C.C.** "Public Health (London) Act, 1891," § 2 (1 *b*)—The provisions of this Act for the suppression of nuisances do not apply to a nuisance alleged to arise from a public sewer vested in the London County Council; and a Court of Summary Jurisdiction has no power to entertain a complaint based upon such an alleged nuisance. (66 L. J., Q. B., 515: L. R, 2 Q. B., 76: 76 L. T., 691: 13 *Times* L. R., 427.)

1898, Dec. 7. [415]
Jones *v.* **Barking U. D. C.** "Public Health Act, 1875," § 15—Damage to plaintiff's premises by overflow of sewage from a sewer laid by him and connected by him with an existing sewer vested in the Council—Some evidence of negligence on the part of Council in failing to improve the public sewer as was necessary—Held that even assuming that plaintiff's sewer had been approved by the Council, he had no cause of Action—The duty on the part of a Local Authority to provide

efficient sewers can only be enforced by the Local Government Board. (15 *Times* L. R., 92. In the Court below: *Loc. Gov. Chron.*, 1898, p. 308.)

1899, May 17. [416]
Kinson Pottery Co. *v.* Poole Corporation. "Public Health Act, 1875," §§ 15, 21, 94—Appellants were owners of houses from which foul water was, without the permission of the Corporation, discharged by drains into a surface-water sewer and thence into a ditch, causing a nuisance—Corporation had not provided a suitable sewer for the reception of such foul water, but it did not appear that such sewer was necessary for the district generally—On proceedings before Justices under § 94, an Order was made to disconnect the drains and construct cesspools—Order held good, and § 21 not available as a defence, as it does not entitle an owner to empty his drainage into a sewer not suited for the reception of such drainage. (68 L. J., Q. B., 819: L. R., 2 Q. B., 41: 82 L. T., 24: 15 *Times* L. R., 379.)

1894, July 20. [417]
Lambton *v.* Mellish. Nuisance—Noise—The acts of two or more persons may, taken together, constitute such a nuisance that the Court will restrain all from such acts, though the nuisance caused by any one taken alone would be inappreciable, and would not be restrained by injunction. (63 L. J., Ch., 929: L. R., 3 Ch., 163: 71 L. T., 385: 10 *Times* L. R., 600.)

1899, Feb. 16. [418]
London, Brighton & South Coast Railway *v.* Haywards Heath U. D. C. By-Law under the "Public Health Acts" prohibiting deposit of manure on the surface of "any place" held not applicable to manure in a railway truck standing in a goods yard pending unloading by the consignee thereof—Conviction quashed (80 L. T., 266.)

1893, Dec. 13. [419]
Thames Conservators *v.* London Port Sanitary Authority. "Public Health (London) Act, 1891," § 4 (1, 3*b*)—§ 4 (1) must be read with the proviso (3*b*)—Where the person causing a nuisance cannot be found, the liability of an owner of premises to abate it only arises where it is shown that it continues by his act, default, or sufferance—The Thames Conservancy are owners of the soil of the river for certain specified purposes, but not for the purposes of the above § 4. (63 L. J., M. C., 121: L. R., [1894] 1 Q. B., 647: 69 L. T., 803: 10 *Times* L. R., 160.)

1902, June 24. [420]
Wimbledon U. D. C. *v.* Hastings. "Public Health Act, 1875," §§ 4, 91, 92, 102—"House" in § 91 (5) includes a day-school where there are no boarders, and where none of the staff reside—Where, under § 102, an application is made to a Justice for an Order to enter premises where a nuisance is alleged to exist, such Justice, although he has not to decide whether a nuisance in fact exists, may consider whether there are reasonable grounds for suspecting a nuisance, and for that purpose may receive evidence as to the facts—If a Justice makes an Order for an officer to enter and inspect, such Order ought to be made in reference to a particular subject-matter. (87 L. T., 118.)

57. "Owner," Definition of.

1901, May 2. [421]
Broadbent *v.* Shepherd. "Public Health Act, 1875," §§ 4, 94—Nuisance on Premises—As the actual owner could not be found, proceedings were taken against the collector of the rents—Held that for the purpose in question the rent-collector might be treated as the "owner," and this notwithstanding that he had ceased to be the owner's agent between the commencement of the proceedings and the final adjudication. (70 L. J., K. B., 628: L. R., 2 K. B., 274: 84 L. T., 844: 65 J. P., 499: 17 *Times* L. R., 460.)

1894, June 23. [422]
Christchurch Inclosure Act, In re: Meyrick *v.* Attorney-General. "Public Health Act, 1875," §§ 4, 150, &c.—A claim for paving expenses can be sustained in respect of property vested under the authority of Parliament in a Trustee for charitable purposes, even though the property cannot lawfully be let—Such Trustee is an "owner"—Cited in *Hornsey* v. *Smith* [1897]. (63 L. J., Ch., 657: L. R., 3 Ch., 209: 71 L. T., 122: 10 *Times* L. R., 555.)

1897, Jan. 13. [423]
List *v.* Tharp. "London Building Act, 1894," §§ 5 (29, 31, 32), 90—Possession of premises under building agreement — Party-wall Notice — "Owner" — "Owner" includes a person who has entered upon land and erected buildings under an agreement for a lease, though no lease has been executed, and though the agreement is expressed not to operate as a demise, but to give only a right to enter upon the premises to perform the agreement. (66 L. J., Ch., 175: L. R., 1 Ch., 260: 76 L. T., 45: 13 *Times* L. R., 149.)

1894, Oct. 29. [424]
St. Mary, Islington, Vestry *v.* Cobbett. "Metropolis Management Acts, 1855, 1890:" "Metropolitan Open Spaces Act, 1877," § 1—A Local Authority had acquired, under the last-named Act, for the purpose of a public garden, the residue of a lease of a piece of land, subject to the covenants of the

lease—Held that the Local Authority were "owners" within the "Metropolis Management Act, 1890," § 1, and liable to contribute towards the expense of flagging the footways which abutted on the land. (64 L. J., M. C., 36: L. R., [1895] 1 Q. B., 369: 43 W. N., 44: 71 L. T., 573.)

1893, Oct. 28. [425]
Smith, In re: Mason, Ex parte. Bankruptcy—At the date of the receiving order the debtor was in arrear for gas supplied during the previous quarter, and the Company cut off the supply and declined to re-connect at the request of the Receiver till the arrears were paid—The Receiver paid under protest—On application by the Trustee for repayment, it was held that the debtor had not ceased to be occupier, and that Receiver could not be said to be "owner" or "occupier" of the premises in the debtor's place within the "Gasworks Clauses Act, 1871," § 11, and was therefore not entitled to call on the Company to supply him with gas, and that the application of the Trustee to recover back the money from the Gas Company must fail. (L. R., 1 Q. B., 323: 67 L. T., 596: 41 W. R., 159: 9 *Times* L. R., 15.)

1893, March 27. [426]
Tottenham L. B. *v.* Williamson (1). Local Act authorising works of paving, &c.—Defendant was second mortgagee of houses adjoining a street, and was in possession from April, 1891, to June, 1892, collecting the rents, which he applied in keeping down outgoings and the interest on the first mortgage: no surplus remained after these payments—In June, 1891, the Local Board apportioned the estimated expenses between defendant and other frontagers—The first mortgagee entered into possession in June, 1892, and the works were not completed till July—Held that the defendant, the second mortgagee, was the "owner" of the houses within § 4 of the "Public Health Act, 1875," which was incorporated by the Local Act, and was therefore liable for the apportioned expenses. (62 L. J., Q. B., 322: 69 L. T., 51: 9 *Times* L. R., 372.)

1894, Aug. 8. [427]
Truman, Hanbury & Co. *v.* Kerslake. "Public Health (London) Act, 1891," § 141—Where the lessee of premises not let at a rack-rent has sublet them for his whole term less a few days, the rent and the covenants being the same as in the original lease, the sub-lessee and not the lessee is the "owner" within this Section. (63 L. J., M. C., 222: L. R., 2 Q. B., 774: 10 *Times* L. R., 668.)

58. Parliamentary Expenses.

1898, March 25. [428]
Attorney-General *v.* Swansea Corporation. "Borough Funds Act, 1872," § 4—At the instance of a Gas Company suing as ratepayers a Municipal Corporation which had not complied with § 4 was restrained from applying any part of its Borough Fund (there being no surplus) to the costs of opposing a Bill promoted by the Gas Company which would affect the price of gas—An alteration in the price, the Corporation being a large consumer, does not affect its "rights, privileges, and duties" within the principle of the decision in *Attorney-General* v. *Brecon* [1878]. (67 L. J., Ch., 356: L. R., 1 Ch., 602: 78 L. T., 412: 14 *Times* L. R., 322.)

1899, July 25. [429]
Leith Magistrates and Council *v.* Leith Harbour Commissioners. "Public Health (Scotland) Act, 1867," § 95 — A Council which was also the Public Health Authority incurred costs in opposing a Bill for amalgamating its District with another District—Opposition successful — Held that it was *ultra vires* to include the costs of the opposition in the Public Health assessment as expenses incurred in executing the "Public Health (Scotland) Act" — The expenses ought to have been charged to the Council's General Fund—*Attorney-General* v. *Brecon* [1878] distinguished. (68 L. J., P. C., 109: L. R., A. C., 508: 81 L. T., 98: 64 J. P., 180: 15 *Times* L. R., 492.)

59. Paving Expenses.

1899, March 2. [430]
Allen *v.* Fulham Vestry. "Metropolis Management Act, 1855," §§ 105, 250: "Metropolis Management Amendment Act, 1862," §§ 77, 112—The provisions of these Acts for paving new streets at the expense of frontagers do not apply to newly-formed roads adjoining which there are no buildings—"Street" means a roadway with buildings along it. (68 L. J., Q. B., 450: L. R., 1 Q. B., 681: 80 L. T., 253: 15 *Times* L. R., 241.)

1897, Nov. 2. [431]
Ashton-under-Lyne Corporation *v.* Pugh. "Public Health Act, 1875," §§ 149, 340—Local Act of earlier date—Paving, kerbing, &c. — Provisions of earlier Act held not superseded by the General Act, the saving in § 340 being explicit. (67 L. J., Q. B., 32: 77 L. T., 583.)

1895, May 16. [432]
Barry & Cadoxton L. B. *v.* Parry. "Public Health Act, 1875," § 150—An Urban Authority has power to require the owner of premises fronting a street which is not a highway repairable by the inhabitants at large, to pave and channel such street, notwithstanding that it has already been paved and channelled to the satisfaction of such Authority—The liability of the owners to be called upon to repair their work continues so long as the highway continues not to be a public one. (64 L. J., Q. B., 512: L. R., 2 Q. B., 110: 72 L. T., 692.)

1900, May 21. [433]
Bishop *v.* **Wandsworth B. W.** "Metropolis Management Act, 1855," § 57—Expenses of paving a new street apportioned and some of the money collected—Resolution of apportionment rescinded and money returned—New resolution of apportionment—Held that the Board was entitled to rescind its first resolution, and that the second was enforceable. (69 L. J., Q. B., 632: 82 L. T., 766.)

1902, March 17. [434]
Blackburn Corporation *v.* **Sanderson.** Local Act authorising the recovery of paving expenses either before a Court of Summary Jurisdiction, or by Action in a Superior Court—Held that the 6 months' limitation of time prescribed by the "Summary Jurisdiction Act, 1848," § 11, was not binding on a Local Authority proceeding in the alternative by Action in the High Court—*West Ham* v. *Maddams* [1876] and *Tottenham* v. *Rowell* [1876] distinguished: *Hammersmith* v. *Lowenfeld* [1896] overruled. (71 L. J., K. B., 590: L. R., 1 K. B., 794: 86 L. T., 304: 66 J. P., 452: 18 *Times* L. R., 436.)

1894, Dec. 13. [435]
Clacton L. B. *v.* **Young.** "Private Street Works Act, 1892," § 10—Works executed in a private street having houses only on the north side—The work partly consisted of flagging a footway on the north side: there was no footway on the south side—Held that the expenses of the footway were properly apportionable amongst the owners on both sides. (64 L. J., M. C., 124: L. R., [1895] 1 Q. B., 395: 11 *Times* L. R., 118: [*Great C.* v. *Young*] 71 L. T., 877.)

1902, Jan. 15. [436]
Clerkenwell Vestry *v.* **Edmondson.** "Metropolis Management Amendment Act, 1862," §§ 52, 53, 112—Old highway with many houses older than 1856 on one side, and with a few, more modern, on the other side, found by Justices to have been a "street" before 1856, is none the less a "street" because a County boundary runs along its centre—The Local Authority of the modern side having constructed a sewer for that side, held not entitled to recover the cost from the frontagers on that side as for the drainage of a "new street." (71 L. J., Q. B., 198: L. R., 1 K. B., 336: 86 L. T., 137: [*St. James & St. John, Clerkenwell* v. *E.*] 66 J. P., 324: 18 *Times* L. R., 248.)

1894, May 1. [437]
Derby, Mayor, *v.* **Grudgings.** "Public Health Act, 1875," § 150—On the owner's default to comply with a notice to sewer, &c., the Urban Authority did the work, and their Surveyor apportioned the amount—Owner gave no notice, under § 257, to dispute apportionment—On complaint to Justices it appeared that the carriage-way was repairable by the inhabitants at large, but that the footway was not—Held that the Authority had jurisdiction to give the notice and make the apportionment as to the footpath, and as owner had not disputed apportionment, he could not before the Justices set up that he was not bound to pay part of the appointed sum. (63 L. J., M. C., 170: L. R., 2 Q. B., 496: 72 L. T., 594: 10 *Times* L. R., 455.)

1893. [438]
Folkestone, Mayor, *v.* **Brooks & Ladd.** "Public Health Act, 1875," § 150—Two frontagers gave notice of objection to apportioned paving expenses—One raised the question of cost, and the objection appeared based on that rather than on the apportionment—Held that arbitration was necessary before the expenses became a debt due, as the Corporation, whatever their rights, had in fact treated the notice as an objection to the apportionment and not merely an objection to the cost of the work—The other frontager disputed the claim in general terms—Held that this was a dispute as to apportionment, and that no debt arose until arbitration had been resorted to. (62 L. J., Ch., 863: L. R., 3 Ch., 22: 69 L. T., 403: 9 *Times* L. R., 504.)

1901, Jan. 16. [439]
Fulham Vestry *v.* **Minter.** "Metropolis Management Acts, 1855, 1862:" "Metropolitan Open Spaces Acts, 1877, 1881:" "Open Spaces Act, 1887:" "London Open Spaces Act, 1893"—A Metropolitan Authority are "owners" of an open space acquired by and vested in them under the Acts of 1877 and 1887, and as such are liable to contribute to the paving of a new street on which the open space abuts—Where a public body can exercise powers under either of 2 statutes, they are to be deemed, if there is any difference between the two, to be acting under that Statute under which they have the more beneficial powers. (70 L. J., Q. B., 348: L. R., 1 Q. B., 501: 84 L. T., 49: 17 *Times* L. R., 192.)

1893, Dec. 7. [439*a*]
Handsworth L. B. *v.* **Taylor.** "Public Health Act, 1875," § 150—Some houses built in a new street and drained into a make-shift sewer—Held that under the circumstances there had not been provided by the owners a permanent and effectual sewer within the meaning of the Act, and that the Local Board were entitled 5 years later to recover the expenses of providing a permanent sewer. (L. R., [1897] 2 Ch., 442 *n.*: 58 J. P., 9.)

1897, July 9. [440]
Heston & Isleworth U. C. *v.* **Grout.** "Public Health Act, 1875," § 150: "Private Street Works Act, 1892," § 25—Notices served under the Act of 1875 to frontagers to make up a street—Expiry of time limited and nothing

done either by frontagers or by Local Authority on default by frontagers—Held that Authority might adopt Act of 1892 and proceed under it—The provision in § 25 of the Act of 1892 is a constructive repeal within the "Interpretation Act, 1889," § 38 of § 150 of the Act of 1875 where the Act of 1892 is in force. (66 L. J., Ch., 647: L. R., 2 Ch., 306: 77 L. T., 118: 13 *Times* L. R., 504.)

1897, April 3. [441]
Hornsey D. C. v. Smith. "Schools Sites Act, 1841," § 6: "Public Health Act, 1875," §§ 150, 257—Expenses of private street works declared a charge on premises—The Court will not enforce such charge by sale or mortgage, because to do so would be a contravention of the "School Sites Act, 1841"—Trustees continue personally liable as "owners." (66 L. J., Ch., 476: L. R., 1 Ch., 843: 76 L. T., 431: 13 *Times* L. R., 322.)

1902, April 15. [442]
Hornsey U. C. v. Hennell. "Public Health Act, 1875," § 150—Volunteer Head-quarters—The Crown, not being named in this Section, is not liable for paving expenses in respect of Crown property in a street—Land acquired by a Volunteer Corps for military purposes, and held under the "Volunteer Act, 1863," and the "Military Lands Act, 1892," is to be treated as Crown property and exempt. (71 L. J., K. B., 479: L. R., 2 K. B., 73: 86 L. T., 423: 66 J. P., 613.)

1899, Feb. 13. [443]
Leeds Corporation v. Armitage. Local Acts, with provisions similar to "Public Health Act, 1875," § 150—Notices for street-paving served on frontagers, but defendant's predecessor in title omitted to be served at the proper time—Works commenced, and the omission afterwards discovered — Omission rectified, and works resumed after the necessary 2 months, during which defendant did nothing—Held that the Corporation could recover neither the whole of the expenses, nor even part, in respect of work done after service of the Order. (*Loc. Gov. Chron.*, 1899, p. 391.)

1894, Dec. 14. [444]
Moore v. Fulham Vestry. Vestry summoned the plaintiff for paving expenses in respect of premises alleged to abut on a certain street—Before the hearing plaintiff paid the money, under a mistaken belief that his premises did abut on the street, and that he was liable—Thereupon summons withdrawn—Discovering the mistake, he sued to recover back the money as having been paid under a mistake of fact—Held that he could not recover, the rule being that money paid under compulsion of legal process is irrecoverable. (64 L. J., Q. B., 226: L. R., [1895] 1 Q. B., 399: 71 L. T., 862: 11 *Times* L. R., 122.)

1893, Dec. 1. [445]
Paddington Vestry v. North Metropolitan Railway Co. "Metropolis Management Amendment Act, 1890," § 1—The cost of flagging a footway should be apportioned between the owners on both sides of the road, or on both sides of that section of the road in which the footway is situate, subject to the proviso as to charging houses at a greater rate than land. (63 L. J., Q. B., 316: [1894] L. R., 1 Q. B., 633.)

1894, Feb. 12. [446]
St. Giles, Camberwell, Vestry v. London Cemetery Co. "Metropolis Management Act, 1855," §§ 105, 250: "Metropolis Management Amendment Act, 1862," § 77—Cemetery Company prohibited from selling any consecrated land, but empowered to make profits by selling exclusive rights of burial—New street made abutting on consecrated part of cemetery—Held that the company were owners of land within the above § 250, and were liable for paving expenses. (63 L. J., M. C., 74: L. R., 1 Q. B., 699: 70 L. T., 734: 10 *Times* L. R., 270.)

1902, March 13. [447]
Scott v. Lowe. "Metropolis Management Acts, 1855, 1890"—Apportioned paving expenses not paid—Summons to enforce payment dismissed on the ground that the street was not a new street—First apportionment rescinded and a new one made—Second summons for non-payment dismissed by the Magistrate on the ground that the matter was *res judicata*—Held, on the authority of *Reg.* v. *Hutchins* [1881] and *Wakefield* v. *Cooke* [1901], that the matter was not *res judicata*, and that the second summons must be heard on its merits. (86 L. T. 421: 66 J. P., 520.)

1900, March 19. [448]
Stock v. Meakin. "Private Street Works Act, 1892," §§ 1, 12, 13—The amount of apportioned expenses becomes a charge on premises as from the completion of the works, and not merely as from the date of the final apportionment—If, therefore, premises are sold free from encumbrances after the completion of the works, but before the final apportionment, vendor must indemnify purchaser against the sum finally apportioned. (69 L. J., Ch., 401: L. R., 1 Ch., 683: 82 L. T., 248.)

1899, July 4. [449]
Twickenham U. C. v. Munton. "Private Street Works Act, 1892"—Where proceedings have been duly taken under § 6 (1) for making up a whole street, Justices have, on the hearing of an objection by a frontager under § 7 that part is repairable by the inhabitants at large, jurisdiction under § 8 (1) to amend and limit the scheme to the remaining portion of the street, and the

Local Authority need not begin their proceedings *de novo*—Where, on the hearing of an objection to a scheme, Justices have decided to amend it, the question whether they shall adjourn the hearing and direct further notices is entirely within their discretion—Where the amendment is of a material character an adjournment and fresh notices are desirable, though not obligatory. (68 L. J., Ch., 601: L. R., 2 Ch., 603: 81 L. T., 136.)

1901, Dec. 16. [450]
Wakefield, Mayor, *v.* Cooke. Local Act, certain Sections of which were practically identical with the "Private Street Works Act, 1892," §§ 6–8—A finding of Magistrates upon proceedings taken that a certain street is a highway repairable by the inhabitants at large, is not conclusive in subsequent proceedings for apportionment against other parties, and is no bar to such subsequent proceedings. (71 L. J., K. B., 257: L. R., [1902] 1 K. B., 188: 86 L. T., 198: 66 J. P., 232: 18 *Times* L. R., 193. Reversed on appeal, Feb. 3, 1903, 19 *Times* L. R., 214).

1897, Nov. 4. [451]
West Hartlepool, Mayor, *v.* Robinson. Local Act with street-paving provisions similar to "Public Health Act, 1875"—Road authorised to be made only 18 ft. wide at first, but to be ultimately widened to 36 ft.—Order to pave — Default of the frontagers—Defendant owner of the extra 18 ft. added to widen the road, but he was not in any other sense a frontager—Held that though he had carried out his original agreement to add a strip so as to widen the road to 36 ft., and had paved and otherwise made up the added strip, he was nevertheless liable to contribute towards the paving and making up of the first 18 ft. (77 L. T., 387: 46 W. R., 218: 14 *Times* L. R., 18.)

1897, April 17. [452]
White *v.* Fulham Vestry. "Metropolis Management Act, 1855," § 105—In 1870 a new street was paved and expenses apportioned amongst frontagers on north side—No houses on south side—The works comprised only carriageway and pavement on north side—In 1888 owner of south side agreed to surrender a strip of land 13 ft. wide to be laid out as footpath—Vestry added 6 ft. of this to roadway and kerbed the remaining 7 ft. as footpath, but did not pave it—In 1894 Vestry resolved to pave this south side footpath as a "new street" and apportion the expenses on owners on both sides—Held that though the Vestry might treat the new footpath as a "new street" and charge the south side frontagers for it, they could not make the north side frontagers share in the expenses, because the north side houses did not abut on the new footpath, but on the street which since 1870 had ceased to be a "new street" —Approved of in *Property Exchange* v. *Wandsworth* [1902]. (74 L. T., 425: 12 *Times* L. R., 328.)

60. Petroleum.

1901, Nov. 7. [453]
Godfrey *v.* Napier. "Petroleum Act, 1871:" "Highways Act, 1896," § 5—A Local Authority is not entitled to make, in connection with petroleum kept for light locomotives, Regulations inconsistent with those made by a Secretary of State under § 5 of the Act of 1896. (18 *Times* L. R., 31.)

1899, June 14. [454]
London C. C. *v.* Holzapfels Composition Co. "Petroleum Act, 1871," § 3—A composition for coating ships' bottom containing 33 per cent. of petroleum, and giving off inflammable vapour at a temperature of 73° F., is "petroleum" within the above Section. (68 L. J., Q. B., 886: 81 L. T., 190: 15 *Times* L. R., 417.)

62. Powers of Local Authorities.

1894, July 9. [455]
Darlaston L. B. *v.* London & North Western Railway. "Railway and Canal Traffic Act," 1854, §§ 1, 2—Proceedings by Local Authority to compel a Railway Company to keep open an unprofitable station—Order by Railway Commissioners to this effect held *ultra vires*. (63 L. J., Q. B., 826: L. R., 2 Q. B., 694: 71 L. T., 461; 10 *Times* L. R., 578.)

1897, Jan. 15. [456]
Reg. *v.* Lewisham Guardians. "Public Health (London) Act, 1891"—A Sanitary Authority, as such, has no specific legal interest which entitles it to obtain a *Mandamus*, calling upon Board of Guardians as the Vaccination Authority to enforce the "Vaccination Acts." (66 L. J., Q. B., 403: L. R., 1 Q. B., 498: 76 L. J., 324: 13 *Times* L. R., 154.)

1896, Jan. 21. [457]
Reg. *v.* Plymouth, Mayor. "Sea Fisheries Act, 1888," §§ 1, 6, 10—District Committees—Expenses—Restrictions or conditions as to expenditure cannot be imposed by constituent Councils after the appointment of an Officer to be affected by such conditions. (65 L. J., Q. B., 258: L. R., [1896] 1 Q. B., 158: 12 *Times* L. R., 157.)

1898, Nov. 7. [458]
Reg. Yorkshire *v.* N.R. C. C. "Sea Fisheries Act, 1888," § 6 (1)—Where a local Fisheries Committee comprises representatives of more than one Council, it is not open to any one Council to make conditions as to expenditure

—The conditions referred to in the above subsection can only be imposed by the common consent of all the Councils. (68 L. J., Q. B., 92: L. R., [1899] 1 Q. B., 201: 79 L. T., 521: 15 *Times* L. R., 31.)

1902, March 14. [459]
Rex *v.* **Dolby.** A Local Authority is not entitled to provide out of the Public Funds conveyances for the purpose of taking members about their District when performing their ordinary duties as Councillors—Auditor's disallowance upheld. (87 L. T., 27: 66 J. P., 521: 18 *Times* L. R., 434.)

1897, Dec. 7. [460]
Sheffield Corporation *v.* **Sheffield Electric Light & Power Co.** Provisional Order authorising a Corporation to purchase an electric lighting undertaking—Powers of Corporation modified by subsequent Provisional Order—Conflict of provisions as to issue of Stock—Held that the powers of the Corporation were, under the circumstances, in abeyance. (67 L. J., Ch., 113: L. R., [1898] 1 Ch., 203: 77 L. T., 616.]

1896, July 27. [461]
Tottenham U.D.C. *v.* **Williamson (2).** "Public Health Act, 1875," § 107—A Local Authority is not empowered to bring an Action in its own name for an Injunction to restrain a public nuisance in which no special damage could be proved—*Semble*, that if the sanction of the Attorney-General be obtained, such an Action might be brought in his name at the instance of the Local Authority as relator. (65 L. J., Q. B., 591: L. R., 2 Q. B., 353: 75 L. T., 238.)

1902, Aug. 11. [462]
Truro Corporation *v.* **Rowe.** Oyster Fishery —Action by Corporation as lessees of a foreshore against a fisherman for trespass, the trespass consisting in marking out for his own special use a particular part of the foreshore for the deposit and cleansing of oysters fished by him—Claim to the exclusive use of this portion as incident to his public right to fish in the adjacent water—Held that the claim could not be sustained as against the superior rights of the Corporation as lessees. (71 L. J., K. B., 974: L. R., 2 K. B., 709: 87 L. T., 386: 66 J. P., 821: 18 *Times* L. R., 820.)

64. Salary.

1894, April 17. [463]
Attorney-General *v.* **Cardiff Corporation.** A payment made in form by way of addition to a Mayor's salary is not legal unless it is a *bona fide* increase of salary—A special addition as interest on a sum authorised to be contributed towards the site of a certain college held illegal, there being no power in the Local Act to authorise payment of interest, and the outlay, moreover, not being for the public benefit within the "Municipal Corporations Act, 1882," § 143—Held, however, that a payment to the Mayor of £650 for the celebration of the Duke of York's marriage was within the competency of the Corporation, although the matter had been dealt with in a somewhat doubtful manner. (63 L. J., Ch., 557: L. R., 2 Ch., 337: 70 L. T., 591: 10 *Times* L. R., 420.)

1898, July 25. [464]
Thetford Corporation *v.* **Norfolk C. C.** "Local Government Act, 1888," § 38—The Liability under Charter or under the "Municipal Corporations Acts" of Boroughs with separate Courts of Quarter Sessions to pay the salaries of Recorders and Clerks of the Peace out of Borough Funds is not in any way altered by the Act of 1888 in cases of boroughs under 10,000 in population—*Kent* v. *Sandwich* [1891] and *Herefordshire, In re*, [1894] overruled. (67 L. J., Q. B., 907: 79 L. T., 315: 14 *Times* L. R., 541.)

65. Scavenging.

1898, Nov. 8. [465]
Barnett *v.* **Laskey.** "Public Health Act, 1875," §§ 42, 94—Typhoid fever in certain houses provided with privies which the Local Authority had undertaken to cleanse under § 42—Neglect by Authority to cleanse and prevent the privies becoming impregnated with germs—18 months afterwards, the privies being so impregnated that efficient disinfection was impossible or difficult, the Authority served notice on owner to abolish such privies, and substitute water-closets and do certain other works—Held that the nuisance arose from the default of the Authority and not from the default of the owner, nor from the want or defective construction of any structural convenience, and therefore that the Authority had no jurisdiction to serve a notice under § 94. (68 L. J., Q. B., 55: 79 L. T., 408.)

1896, May 15. [466]
Borrow *v.* **Howland.** "Public Health (London) Act, 1894," §§ 16, 30, 31, 116—By-Law requiring a Local Authority under the Central Authority to visit houses once every week to collect house refuse—A householder objected to be so visited, and refused to admit a scavenger to his house—Held that he had been guilty of the offence of "wilfully obstructing," &c. (74 L. T., 787: 12 *Times* L. R., 414.)

1893. [467]
St. Margaret's Vestry *v.* **Queen Anne's Mansions Co.** "Public Health (London) Act, 1891," § 33—Clinkers and ashes from furnaces used for supplying electric light to

private residential flats, held to be trade refuse which the Vestry was not bound to remove. (57 J. P., 277.)

1894, Oct. 26. [468]
Saunders *v.* **Holborn B. W.** "Public Health (London) Act, 1891," § 29—This Section does not give any right of action to a person suffering special damage from a breach of duty by a Local Authority neglecting to remove street refuse, *e.g.* snow. (64 L. J., Q. B., 101: L. R., [1895] 1 Q. B., 64: 71 L. T., 519: 11 *Times* L. R., 5.)

66. Seal.

1893, July 5. [469]
Oxford, Mayor *v.* **Crow.** "Municipal Corporations Act," § 22 (2)—Specific performance will not be decreed of a contract with a Municipal Corporation which is not under seal nor signed by a person authorised under seal, nor ratified under seal, nor partly performed or acted on. (L. R., 3 Ch., 535: 69 L. T., 228.)

67. Sea-Shore.

1897, Oct. 30. [470]
Gray *v.* **Sylvester.** Sea-beach and fore-shore acquired by Urban Authority for public walks and pleasure-grounds by Provisional Order, which authorised the making of By-Laws and Regulations—By-Law prohibiting the sale of any article except by direction of the Urban Authority, or except in a permitted locality, held good—Prosecution for selling a newspaper on an esplanade—Held that Justices ought to have convicted. (61 J. P., 807: 14 *Times* L. R., 10.)

1899, Aug. 2. [471]
Llandudno U. C. *v.* **Woods.** Fore-shore—Crown Lease—Preaching—Sea-shore vested in Local Authority under a Crown lease—Services held without the consent of the Authority, by W. a clergyman who claimed the right to do so on the ground that the sea-shore was a highway—Action against W. claiming a declaration that he was not entitled to hold the services without the consent of the Authority, and for an injunction to restrain him—No evidence of any obstruction or breach of the peace—No evidence on the part of W. of prescriptive right or custom—Held that the Authority was entitled to the declaration—Injunction refused on the ground that the matter was too trivial—*Blundell* v. *Catterall* [1821] followed. (68 L. J., Ch., 623: L. R., 2 Ch., 705: 81 L. T., 170: 63 J. P., 775.)

1893, April 28. [472]
Smart *v.* **Suva Town Board.** Fiji Law—Western boundary of a town declared by proclamation to be the sea-coast at high-water mark and the eastern boundary to be at a specified distance therefrom—Held that the high-water mark for the time being is meant, and that the reclaimed fore-shore was to be considered within the town. (62 L. J., P. C., 88: L. R., A. C., 301: 68 L. T., 774.)

68. Sewers, &c.

1898, March 29. [473]
Andrew *v.* **St. Olave's B. W.** "Public Health (London) Act, 1891," §§ 4 (1, 4), 11 (1)—The owner of premises on which a nuisance existed owing to a defective drain received notice from the Local Authority to abate the nuisance—Believing that the drain belonged to a "combined" system for which he was responsible, he did the works required—Subsequently finding that the drain was a "sewer" for which the Local Authority was responsible, he brought an Action in the County Court to recover his outlay—Held that he was entitled at Common Law to recover. (67 L. J., Q. B., 592: 78 L. T., 514.)

1897, March 15. [474]
Appleyard *v.* **Lambeth Vestry.** "Metropolis Management Act, 1855," § 250: "Metropolis Management Act, 1862," § 112—A drain for combined drainage would be a "sewer" repairable by the Vestry, unless constructed before 1856 with the sanction of the "Metropolitan Commissioners of Sewers"—Held that this allusion was to the Commissioners created in 1848, and did not include Commissioners of Sewers of earlier date, and that the drain was therefore a "sewer" within the Act of 1855, and repairable by the Vestry. (66 L. J., Q. B., 347: 76 L. T., 442: 13 *Times* L. R., 289.)

1894, March 20. [475]
Baird *v.* **Tunbridge Wells Mayor.** "Public Health Act, 1875," §§ 39, 149—The vesting of a street in a Local Authority does not vest the subsoil; therefore a Local Act authorising an Urban Authority to erect lavatories in any street or place, or on land belonging to or controlled by them, does not entitle the Urban Authority to excavate the soil and erect lavatories below the surface of a street vested in them. (64 L. J., Q. B., 145: L. R., [1896] A. C., 434: 71 L. T., 211: 10 *Times* L. R., 378.)

1900, July 94. [476]
Baron *v.* **Portslade-by-Sea U. C.** "Public Health Act, 1875," §§ 15, 19, 299—If a Local Authority knowingly neglects to cleanse a sewer vested in it, and damage is caused to adjoining land by sewage coming upon it, the landowner can maintain an Action—§ 299 is to be read with § 15, and does not confer an exclusive remedy for failure on the part of the Local Authority to discharge its statutory duty under § 19.

(69 L. J., Q. B., 899: L. R., 2 Q. B., 588: 83 L. T., 363: 64 J. P., 675: 16 *Times* L. R., 523.)

1900, June 14. [477]
Bennett *v.* **Hardinge.** "Public Health (London) Act, 1891," § 38—Stables of a cab-proprietor where horse-keepers and cab-cleaners were employed held a work-place within the section and required to have conveniences—Also that cab-drivers, though they came to the stables only as customers, might yet be regarded as persons "in attendance"—This was a question of fact depending on whether they remained at the stables for substantial periods of time—Case remitted with directions to convict. (69 L. J., Q. B., 701: L. R., 2 Q. B., 397: 83 L. T., 51: 16 *Times* L. R., 445.)

1898, April 25. [478]
Blundell *v.* **Price.** "Public Health Act, 1875," § 4: Local Act—Six houses drained by one pipe with six branches—Held that these houses were not within the same curtilage, and that, under a By-law requiring a trap in every drain directly communicating with a sewer, six traps and not one were necessary. (*Loc. Gov. Chron.*, 1898, p. 512.)

1898, May 19. [479]
Bootle Corporation *v.* **Owens.** Provisional Order authorising Corporation to require closets to be converted into water closets, owners to have right of appeal to Justices—Respondent, an owner, served with notice—Justices ordered that the notice should be complied with at the joint expense of owner and Corporation—Held that Justices had power to make any such order as to expenses as they deemed reasonable. (87 L. T., 74: 66 J. P., 357.)

1900, Oct. 29. [480]
Bullock *v.* **Reeve.** "Metropolis Management Act, 1855," § 250: "Amendment Act, 1862," § 112—Combined drainage ordered for certain houses—Held that the pipe so used was not a "drain" but a "sewer;" and that consequently the owner of the house under which it passed was not liable for a nuisance caused by its non-repair. (70 L. J., Q. B., 42: 84 L. T., 55.)

1898, May 3. [481]
Button *v.* **Tottenham U. D. C.** "Public Health Act, 1875," § 157—The owner of certain houses constructed a series of cesspools on his own land: the overflow from them passed by a conduit into a larger cesspool—Summons for having given these cesspools an overflow into a "sewer," to wit, the conduit, contrary to a By-Law forbidding such an arrangement—Justices held that the conduit being used for the drainage of several houses occupied by different persons was a "sewer" and that the By-Law had been broken—Held that the Justices were wrong, and that the conduit was not a "sewer." (78 L. T., 470: 62 J. P., 423.)

1898, July 9. [482]
Croysdale *v.* **Sunbury-on-Thames U. C.** "Highway Act, 1835," § 67: "Public Health Act, 1875," §§ 4, 13—A line of pipes laid by landowner to convey surface water from a highway to his pond is a "sewer" under the Act of 1875; and is a sewer made for profit under § 13 of that Act if laid, not for sanitary or ordinary drainage purposes, but to furnish a water supply—Such sewer is therefore not vested in Local Authority—§ 67 of the Act of 1835 does not enable a Highway Authority to discharge highway surface water into a pond on private land—*Ferrand* v. *Hallas* followed. (67 L. J., Ch., 585: L. R., 2 Ch., 515: 79 L. T., 26.)

1897, March. [483]
Dent *v.* **Bournemouth Corporation.** "Public Health Act, 1875," § 308—The diversion by a Local Authority of sewage from one sewer into another already surcharged with sewage, whereby damage is occasioned to an individual, is not a mere omission to perform duties imposed by the "Public Health Act, 1875," and therefore the subject of compensation under § 308: but is the commission of a legal wrong for which the sufferer may maintain an Action. (66 L. J., Q. B., 395.)

1896, June 18. [484]
Eastbourne, Mayor *v.* **Bradford.** "Public Health Amendment Act, 1890," § 19—A Local Authority may treat a drain which connects with a public sewer two or more houses belonging to different owners as a single private drain, and repairable by such owners individually—*Self* v. *Hove* [1895] followed: *Hill* v. *Hair* [1895] disapproved: Dictum of Wills, J., in *Travis* v. *Uttley* [1893] commented on. (65 L. J., Q. B., 571: 74 L. T., 762: 12 *Times* L. R., 479: [*B.* v. *E.*] L. R., 2 Q. B., 205.)

1899, July 24. [485]
Ellis *v.* **Bromley R. D. C.** Owner of house called upon by Local Authority to relay a drain which was, in fact, a sewer, and to do some other works—Under pressure from the Surveyor, but without legal proceedings, he did these things, although the liability to do them rested on the Local Authority—When he discovered this he sought to recover the amount of his voluntary outlay—Held that he had acted as a volunteer, and not under compulsion properly so called, and therefore was not entitled to recover. (81 L. T., 224: 63 J. P., 711.)

1893, May 16. [486]
Ferrand *v.* **Hallas Land and Building Co.** "Public Health Act, 1875," § 13—A sewer

made by landowner solely to collect the drainage of houses on his land is not a sewer "made for profit"—Therefore it is vested in the Local Authority, and they and not the landowner are liable for any nuisance caused thereby — Meaning of sewers "made for profit" considered. (62 L. J., Q. B., 479: L. R., 2 Q. B., 135: 69 L. T., 8.) [Discussed in *Minehead* v. *Luttrell* [1894]: *Vowles* v. *Colmer* [1895]: referred to in *Eastbourne* v. *Bradford* [1896]: followed in *Croysdale* v. *Sunbury* [1898]: considered in *Sykes* v. *Sowerby* [1900].]

1894, Aug. 4. [487]

Fordom *v.* **Parsons.** "Public Health Act, 1875," §§ 13, 15, 94–96—P. and others connected their closets with a drain belonging to the Local Authority without its knowledge —Nuisance caused—No other drain available —No system of drainage carried out by the Authority—Held that as § 15 imposed on the Authority the duty of providing sewers, it could not evade that duty by taking proceedings against P. (64 L. J., M. C., 22: L. R., 2 Q. B., 780.)

1900, May 21. [488]

Frost Fulham v. **Vestry.** "Metropolis Management Act, 1855," § 76—Notice by Vestry that certain proposed drains must have inspection chambers of particular dimensions —Chambers of other dimensions substituted by builder — Summons for breach of the Section—Conviction affirmed — Held that though the Vestry must exercise discretion in each case, the Magistrate was justified in finding that they had done so with reference to appellant's drains. (64 J. P., 629.)

1898, April 20. [489]

Geen *v.* **Newington Vestry.** "Metropolis Management Act, 1855," §§ 74, 76, 250— Drain for drainage by "combined operation" —Evidence of Order by Vestry—The production from the Vestry records of a plan showing drainage by a single pipe, bearing on it an application by the houseowner to the Vestry for their sanction to the proposed drainage, coupled with proof that the plan was acted upon, is evidence of a Vestry Order for a "combined operation," and that the pipe is a "drain" and not a "sewer."— An unauthorised connection with an authorised combined drain of a drain from other premises converts the former into a "sewer" below the point of junction, and renders the Vestry responsible for its management. (67 L. J., Q. B., 557: L. R., 2 Q. B., 1: 46 W. R., 624.)

1902, March 25. [490]

Gorringe *v.* **Shoreditch, Mayor.** Nos. 83 and 85, adjacent houses, drained in 1853 by a combined scheme under the order of the Local Authority—In 1889 one, No. 85, was disconnected and reconnected with adjacent house No. 87, on other side—In 1900 a workshop was added to No. 85, and the workshop drain connected with house No. 87—These modern reconnections were superintended by the officers of the Local Authority, though not in accordance with the plan which had been approved—Held that the drain of No. 87 had not become a "sewer." (86 L. T., 592: 66 J. P., 565.)

1892, July 22. [491]

Graham *v.* **Newcastle Corporation.** Covenant to keep a garden "open and unbuilt upon"— *Semble*, that the erection of a public urinal may not be a breach of covenant to keep a garden open and unbuilt upon, and may not necessarily be a nuisance. (W. N., 1892, p. 134: 8 *Times* L. R., 725.)

1901, June 12. [492]

Graham *v.* **Wroughton.** "Public Health Act, 1875," § 21—This Section does not entitle an owner to empty into a sewer matter which the sewer was never intended to receive, it having been intended for storm water only—*Kinson* v. *Poole* [1899] followed. (70 L. J., Ch. D. 673: L. R., 2 Ch., 451: 17 *Times* L. R., 573.)

1899, April 12. [493]

Greater London Property Co. *v.* **Foot.** "Metropolis Management Act, 1855," §§ 74, 250 — Plan approved by Vestry showing a scheme for the combined drainage of a group of houses—Plan varied in fact by drain being taken under an adjacent house—Held, nevertheless, that the drainage was "combined," and that the drain was a "drain" and not a "sewer." (68 L. J., Q. B., 628: L. R., 1 Q. B., 972: 80 L. T., 390.)

1897, July 9. [494]

Handsworth U. C. *v.* **Derrington.** "Public Health Act, 1845"—A private street is not sewered within § 150 when the houses are served either singly or in groups by private drains constructed by the several owners but not forming one system—The Local Authority may therefore, notwithstanding that these private drains are vested in them under § 13, require the frontagers to sewer the street, unless the Local Authority has either expressly or inferentially determined that it is already sewered to their satisfaction; in this case their powers are no longer exercisable, and any new sewers required must be provided at the public expense—Notices under § 150 must be served on every frontager—If a dispute as to these expenses is referred to arbitration, all objections to the proceedings of the Authority on the ground of insufficient notice to every frontager or otherwise must be raised, if at all, before the arbitrators—It is too late to raise them after the award, for that is (by

§ 180 (15)) "final and binding" on the parties. (66 L. J., Ch., 691: L. R., 2 Ch., 438: 77 L. T., 73: 13 *Times* L. R. 505.)

1901, March 26. [495]
Hedley *v.* **Webb.** "Public Health Act, 1875," § 4—A pipe constructed to drain 2 semi-detached houses into a main sewer, is a drain for the drainage of one building only, and does not vest in the Local Authority—A man cannot by trespassing on another man's land and making a culvert give it the character of a sewer, so as to vest it in the Local Anthority—The term "one building" in § 4 is not equivalent to the term "one house." (L. R., 2 Ch., 126: 84 L. T., 526: 65 J. P., 425: 17 *Times* L. R., 393.)

1895, April 3. [496]
Hill *v.* **Hair.** "Public Health Acts"—Houses drained prior to 1848 by a brick construction on private land which conveyed the drainage into a ditch—Public sewer laid in the ditch in 1853 and the brick construction connected with it—Held that this construction was not "a single private drain," but had become a sewer vested in the Local Authority on the passing of the "Public Health Act," 1848—Disapproved in *Bradford* v. *Eastbourne* [1896]: *Seal* v. *Merthyr* [1897]: referred to in *Reg.* v. *Hastings* [1896]. (64 L. J., M. C., 164: L. R., 1 Q. B., 906: 72 L. T., 629.)

1897, Feb. 12. [497]
Holland *v.* **Lazarus.** "Metropolis Management Act, 1855," § 250—Combined drainage—One drain for 4 houses constructed by order of Vestry—Rain-water pipe from 5th house connected with this drain without Vestry's sanction—Held that the rain-water pipe was a "drain," and that its unauthorised connection with the drain belonging to the 4 houses converted the latter into a "sewer" from the point of junction; and that the owner of the 4 houses was not liable to repair the drain as might be required. (66 L. J., Q. B., 285: 61 J. P., 262: 13 *Times* L. R., 207.)

1893, March 8. [498]
Hornsey L. B. *v.* **Davis.** "Public Health Act, 1875," §§ 13, 15, 150—Sewer in private road accepted by Local Authority though it had no outfall and could not at the time be used—Held that the road having been once sewered to the satisfaction of the Local Authority, the frontagers could not be charged with the cost of another and more efficient sewer. (62 L. J., Q. B., 427: L. R., 1 Q. B., 756: 68 L. T., 503.)

1895, July 28. [499]
Kershaw *v.* **Taylor.** "Metropolis Management Act, 1855," § 250—A builder unlawfully, in 1887, built 4 houses drained into one construction, and sold them to different persons—Held that the purchasers were not estopped from setting up that the construction was a "sewer" and not a drain, and that the duty of repair, therefore, lay on the Local Authority. (64 L. J., M. C., 245: L. R., 2 Q. B., 471: 73 L. T., 274.)

1901, Aug. 8. [500]
King's College, Cambridge *v.* **Uxbridge R. C.** "Public Health Act, 1875"—A pumping-station is not a sewer which a Local Authority is entitled to establish under § 16 on paying compensation, but a means for "receiving, storing, disinfecting or otherwise disposing of the sewage" within § 27, for which land would have to be purchased—Injunction granted, as the Urban Council had given no notice. (70 L. J., Ch. 844: L. R., 2 Ch., 768: 85 L. T., 303: 17 *Times* L. R., 762.)

1898, April 22. [501]
Lancaster *v.* **Barnes U. C.** "Public Health Act, 1875," § 41: "Public Health Amendment Act, 1890," § 19—Notice under § 19 requiring works to be done to a single private drain belonging to premises of different owners—On default Local Authority executed works substantially different from those specified—Held that the expenses could not be recovered—No penalty is incurred by non-compliance with notice to execute works to a single private drain under § 19 of the Act of 1890, the penal provisions of § 41 of the Act of 1875 not being incorporated. (67 L. J., Q. B., 744: L. R., 1 Q. B. 855; 78 L. T., 355.)

1899, Dec. 13. [502]
Lee District Board *v.* **London C. C.** "Metropolis Management Act, 1855," § 135—If Sewerage Works are necessary it is the duty of the Council to execute them, and that duty will be enforced by *Mandamus*—If sewage from a sewer vested in the Council escapes so as to be a nuisance, a *Mandamus* will be granted to compel the Council to keep the sewer so as not to be a nuisance. (82 L. T., 306.)

1898, March 31. [503]
London & North-Western Railway *v.* **Runcorn Railway Co.** "Railways Clauses Act, 1845," §§ 1, 68: "Public Health Act, 1875," §§ 4, 13 (2)—Pipes and drains laid by Company for carrying away land-water used without knowledge or permission to carry off sewage from houses—Held that the pipes and drains, if sewers within the Act of 1875, were also within the exception in § 13 (2) of that Act, and were not vested in the Council. (67 L. J., Ch., 324: L. R. 1 Ch., 561: 78 L. T. 343: 14 *Times* L. R., 331.)

(1901, Nov. 19. [504]
London & North-Western Railway *v.* **Westminster Corporation.** "Public Health

(London) Act, 1891," § 44—The defendants acting under this Section constructed a public convenience under a street, and provided staircase approaches thereto from each side of the street, and in such a way that persons could pass from one side of the street to another as by a regular subway—One staircase occupied a portion of the footway adjoining plaintiff's premises—Held that the fact that the works constituted in effect a subway for passengers did not render the works *ultra vires*—Also that the presumption that the subsoil of a road *ad medium filum* belongs to the adjacent owner applies to a town highway as well as a country one—Held, also, that as the Section vests the subsoil of a road in the Sanitary Authority for the construction of conveniences, but excepts the footway adjoining a building, plaintiffs were entitled to an Injunction requiring the removal of so much of the works as occupied the footway opposite their premises. (71 L. J., Ch., 34: L. R., 1 Ch., 269: 85 L. T., 544: 66 J. P., 343.)

1901, June 20. [505]
Matthews *v.* **Strachan.** "Public Health Act, 1875," § 25—An Urban Authority in deciding what is necessary for the effectual drainage of a new house can only consider what is necessary for the effectual drainage of the particular house—It does not entitle the Authority to enforce separate drains for sewage and surface-water, merely because it is the policy of the Board to deal with sewage and surface-water in separate drains. (70 L. J., K.B., 806: L. R., 2 K. B., 540: 85 L. T., 68: 65 J. P., 789: 17 *Times* L. R., 619.)

1894, Feb. 23. [506]
Minehead L. B. *v.* **Luttrell.** "Public Health Act, 1875," § 13 (1)—L., the owner of nearly the whole of a town sewered the town at his own expense, imposing a voluntary Sewerage Rate on occupiers and other owners—Subsequently an Urban Authority was constituted, which claimed all L.'s sewers—Held that these sewers were laid down for the owner's profit, and did not become vested in the Local Authority—Discussed in *Ferrand* v. *Hallas* [1893]. (63 L. J., Ch., 497: L. R., 2 Ch., 178: 70 L. T., 446.)

1898, Dec. 14. [507]
Newcastle-upon-Tyne Corporation *v.* **Houseman.** "Public Health Act, 1875," §§ 213, 257: Local Acts—Drainage District—Definition of "sewer"—Private improvement expenses—Assessment of expenses in accordance with Valuation List for the time being in force—Complicated incidental circumstances. (*Loc. Gov. Chron.*, 1898, p. 438.)

1899, April 28. [508]
Nicholl *v.* **Epping U. C.** "Public Health Act, 1875," § 36—A Local Authority has power under this Section, on being satisfied that a house is without a sufficient privy, to require the owner (subject to his right of appeal to the Local Government Board under § 268) to provide a sufficient water-closet in place of the existing privy. (68 L. J., Ch., 393: L. R., 1 Ch., 844: 80 L. T., 515.)

1898, Oct. 27. [509]
North *v.* **Walthamstow U. C.** Notice as to Nuisance—Service on person not liable—Work done in obedience to notice—The Sanitary Inspector having complained of a drain at plaintiff's house, plaintiff opened it, and it was found that it drained more than one house—The Inspector then served a notice on plaintiff to abate the nuisance, which he did—Held that as the drain was legally a "sewer," and that therefore it was the duty of the Local Authority to do the work, plaintiff could recover the expenses he had incurred—*Andrew* v. *St. Olave's* [1898] explained and followed: *Self* v. *Hove* [1895] commented on. (67 L. J., Q. B., 972: 15 *Times* L. R., 6.)

1898, April 28. [510]
Pasmore *v.* **Oswaldtwistle U. D. C.** "Public Health Act, 1875"—The duty of a Local Authority to make necessary sewers cannot be enforced by *Mandamus* at the instance of a private person—The only remedy for neglect of the duty is a complaint to the Local Government Board under § 299. (67 L. J., Q. B., 635: L. R., A. C., 387: 78 L. T., 569: 14 *Times* L. R., 368.) [See *Eastwood* v. *Honley* [1901].]

1894, Jan. 19. [511]
Pethick *v.* **Plymouth, Mayor.** "Public Health Act, 1875," § 39—The burden of showing that a site selected for a public convenience is not a proper site lies on the complaining party; it is not sufficient for him to suggest other sites as being more proper. (70 L. T., 304: 42 W. R., 246: 10 *Times* L. R., 204.)

1894. [512]
Pilbrow *v.* **St. Leonard, Shoreditch, Vestry.** "Metropolis Management Act, 1855," § 250—Liability to repair a drain—Premises within same curtilage—Two blocks of apartments divided by a causeway, one end of which was closed by a wall, whilst the other opened into a street—Access to one from the causeway; to the other from the street—Dust-bin in the causeway used by occupiers of both blocks—Branch drains from both into one main drain which ran into a sewer—Held that the two blocks were within the same curtilage, and therefore that the principal drain was a "drain," and not a sewer. (64 L. J., M. C., 131: L. R. 1895, 1 Q. B., 433: 72 L. T., 135.)

1893, Aug. 3. [514]
Raleigh Corporation *v.* **William.** "Ontario Municipal Act, 1887" (Canadian)—Held that notice in writing was not a condition precedent to an Action for damages for non-performance of the statutory duty of maintaining drainage works—Held also that the remedy for damages for negligent construction of drains was arbitration under the Act. (63 L. J., P. C., 1: L. R., A. C., 540: 69 L. T., 506.)

1896, Nov. 6. [515]
Reg. *v.* **Hastings, Mayor.** "Public Health Act, 1875," §§ 15, 41: Local Act—Combined drainage—Demand by owner that Local Authority should execute certain necessary repairs to a drain—Held that the general obligation to repair, imposed by the above-named § 15 was not taken away by the Local Act, and that the Corporation, and not the owner, were liable. (66 L. J., Q. B., 80: L. R. [1897], 1 Q. B., 46: 75 L. T., 377.)

1895, July 4. [516]
Reg. *v.* **St. George's, Hanover Square, Vestry.** "Metropolis Management Act, 1855," § 188—Certain houses being drained directly into the Thames, the London County Council purporting to act under § 188, made an Order on the Vestry of the Parish in which the houses were situate, to make a new sewer to connect the houses with the nearest main sewer—Held that the Order was *ultra vires*. (64 L. J., Q. B., 715: L. R., 2 Q. B., 275: 73 L. T., 62.)

1897, Jan. 20. [517]
Reg. *v.* **St. Giles, Camberwell, Vestry.** Failure to repair sewer—*Mandamus* commanding a Local Authority to repair and maintain a sewer will not be granted where another equally convenient and appropriate remedy exists, namely an Action. (66 L. J., Q. B., 337: 13 *Times* L. R. 162.)

1893, July 17. [518]
Reg. *v.* **Staines Union.** "Public Health Act, 1875," § 299—Default in providing sewers—The Local Government Board had, under § 299, made Orders on two Local Authorities to perform their duties in respect of the provision of sewerage—The Board's Inspector had declined to admit evidence as to the insuperable difficulties and great expense which the Authorities had to face—And the Board did not suggest any definite scheme—Held that a *Mandamus* must go, calling on Authorities to do their duty—So long as there had been no legal error or omission of legal form, it was not for the Court to entertain questions as to whether there had been due inquiry, or whether the findings of the Local Government Board were sufficient or not. (62 L. J., Q. B., 540: 69 L. T., 714: 9 *Times* L. R., 587).

1897, Jan. 12. [519]
Robinson *v.* **Workington Corporation.** "Public Health Act, 1875," §§ 13, 15, 19, 299—No Action lies against a Local Authority at the suit of an individual for mere non-feasance to perform the duty imposed by § 15 of causing necessary sewers to be made, even though special damage may have resulted—*Glossop* v. *Heston* [1879] and *Cowley* v. *Newmarket* [1892] followed. (66 L. J., Q. B., 388: L. R., 1 Q. B., 619: 75 L. T., 674.)

1896, March 18. [520]
St. Leonard, Shoreditch, Vestry *v.* **Phelan.** "Metropolis Management Act, 1855," §§ 68, 250—The fact that a pipe which once carried the drainage of two or more houses has ceased to serve for more than one house is not sufficient to change the character of the pipe from a "sewer" to a "drain"—*Semble*, the absence of any evidence that an ancient pipe conveying the sewage of two or more houses was constructed under the sanction of the Local Authority does not raise any presumption in favour of its having been so constructed. (65 L. J., M. C., 111: L. R., 1 Q. B., 533: 74 L. T., 285.)

1894, Dec. 18. [521]
St. Martin's in the Fields Vestry *v.* **Bird.** "Metropolis Management Act, 1855"—Arcade with central passage and shops on both sides roofed and closed by gates at each end—Drainage by a construction which ran down the centre of the passage way receiving in its course the drainage of the houses—Held that the construction was not a drain for "premises within the same curtilage," and was therefore a "sewer" within § 250, and was vested in and repairable by the vestry. (64 L. J., Q. B., 230: L. R., [1895] 1 Q. B., 428: 71 L. T., 868.)

1896, Nov. 14. [522]
St. Martin's in the Fields Vestry *v.* **Ward.** "Metropolis Management Act, 1855," §§ 69, 73—Old sewer replaced by new one—Notice to owner to make a connection with the new sewer on pretence that his old drain connecting with the old sewer was insufficient—Held that this was a mere pretext, and that even assuming the old drain to have been insufficient, the cost of the works necessary must be borne by the Vestry. (66 L. J., Q. B., 97: L. R., [1897] 1 Q. B., 40: 75 L. T., 349; 13 *Times* L. R., 40.)

1900, March 20. [523]
St. Mary, Islington, Vestry *v.* **Hornsey U. C.** A non-Metropolitan Parish cannot send its sewage into any Metropolitan Parish without

the latter's consent; and such consent can only be by a revocable license, and not by a binding agreement for a definite time—Such license can be terminated at any time, but the Court will not grant an Injunction to close sewers in daily use except after reasonable notice to allow time for other arrangements to be made. (69 L. J., Ch., 324: L. R., 1 Ch., 695: 82 L. T., 580: 16 *Times* L. R., 286.)

1897, Nov. 26. [524]

St. Matthew, Bethnal Green, Vestry *v.* **London S. B.** "Metropolis Management Act, 1855," § 69—No new sewer to be made without the approval of Board of Works—The mere fact that the requisite consent to the construction of a sewer was not obtained does not prevent its being a sewer when made, and, as such, being repairable by a Vestry if the Vestry knew that the sewer had been made, and assented to it—Evidence of an Order of Vestry. (67 L. J., Q. B., 234: L. R., [1898] A. C., 190: 77 L. T., 635: 14 *Times* L. R., 68.)

1897, July 10. [525]

Seal *v.* **Merthyr Tydfil U. C.** "Public Health Amendment Act, 1890," § 19—A drain on private ground to which the public have no access is a private drain—Therefore, if it becomes a nuisance a Local Authority where the Act of 1890 is in force, may take proceedings, under the "Public Health Act, 1875," § 41, against any owner of premises which are connected with it by a branch drain —*Hill* v. *Hair* [1895] discussed and doubted: *Bradford* v. *Eastbourne* [1896] followed. (67 L. J., Q. B., 37: L. R., 2 Q. B., 543: 77 L. T., 303: 13 *Times* L. R., 509.)

1895, Jan, 25. [526]

Self *v.* **Hove Commissioners.** "Public Health Act, 1875," § 41: "Public Health Amendment Act, 1890," § 19—Two houses belonging to different owners were connected with a sewer by a single private drain—The Local Authority served on one owner a notice addressed to both, requiring certain works to be done to abate a nuisance—The owner served did the work and sued the Local Authority for the cost as money paid at their request—Held that the notice was not a mere request, since the owners were compellable to do the work under the above 2 sections. (64 L. J., Q. B., 217; L. R., 1 Q. B., 685: 72 L. T., 234.) [Followed in *Bradford* v. *Eastbourne* [1896]: and discussed in *Reg.* v. *Hastings* [1897].]

1897, June 1. [527]

Simmons *v.* **Malling R. C.** A By-Law duly made, requiring every person constructing a cesspool in connection with a building to construct the same at a distance of 50 ft. from a dwelling-house, is properly applicable to cesspools in connection with old as with new buildings; and is not unreasonable merely because it may be impossible in a particular instance to construct a cesspool at that distance. (66 L. J., Q. B., 585: L. R., 2 Q. B., 433: 77 L. T., 341: 13 *Times* L. R., 447.)

1901, April 17. [528]

Stokes *v.* **Haydon.** "Metropolis Management Act, 1855," § 76—Construction of new drain, man-holes, and other works ordered by Surveyor of Vestry by letter—Letter from Surveyor empowering appellant to do the work —Vestry subsequently confirmed the action of the Surveyor—Work done not in accordance with the conditions prescribed—Held that the Surveyor's letter was a good Order within § 76, even though it had not been confirmed by the Vestry when it was sent; and that Magistrate ought to have convicted the respondent. (84 L. T., 531: 65 J. P., 756.)

1893, Nov. 23. [529]

Stretton's Brewery Co. *v.* **Derby, Mayor.** "Public Health Act, 1875," §§ 15, 19, 21, 299 —Owing to increase of buildings, a sewer which had been sufficient ceased to be sufficient to carry off storm water, and plaintiff's cellars were flooded—The only remedy was a new and difficult system of sewerage, which could not be undertaken until an expert engineer had reported — Corporation consulted experts, but report had not been received—Held that the rights and liabilities of the parties must be ascertained, not as between strangers, but under the Statutes regulating sewers; and that the liability imposed by § 19 is limited to cases of negligence by the Local Authority. (63 L. J., Ch., 135: L. R., [1894] 1 Ch., 431: 69 L. T., 791: 10 *Times* L. R., 94.)

1900, Feb. 22. [530]

Sykes *v.* **Sowerby U.C.** "Public Health Act, 1875," § 13 — Conduit made by quarry owners to carry off surface water flowing down a lane which otherwise would have interfered with the working of the quarry held to be a "sewer" vested in the Local Authority, and not a sewer for profit within the first exception in § 13—*Ferrand* v. *Hallas* [1893] considered. (69 L. J., Q. B., 464: L. R., 1 Q. B., 584: 82 L. T., 177: 64 J. P., 340: 16 *Times* L. R., 225.)

1901, Jan. 18. [531]

Tracey *v.* **Pretty.** "Public Health Amendment Act, 1890," § 22—In a District where this Act is in force, want of conveniences as mentioned in sub-section 1 is a default which entitles a Factory Inspector to give notice to the Local Authority under the "Factory Act, 1878": and if the Local Authority makes no attempt to remedy the matter, the

Factory Inspector may take steps under the Act of 1890 to require the owner or occupier to do what is necessary — The required alterations or additions must be specified— An appeal lies to Quarter Sessions against the Inspector's notice—The requirements, unless successfully appealed against, are conclusive on the Justices on proceedings for penalties of non-compliance, and Justices cannot consider the sufficiency of the existing accommodation or the necessity of additions, &c., required by the notice. (70 L. J., Q. B., 234: L. R., 1 Q. B., 444: 83 L. T., 767: 17 *Times* L. R., 200.)

1893, Dec. 4. [532]
Travis *v.* **Uttley.** "Public Health Act, 1875," § 4 — A drain passing through private ground, but receiving the drainage of more than one building, is a "sewer" within § 4. (63 L. J., M. C., 48: L. R., [1894] 1 Q. B., 233: 70 L. T., 242.) [Distinguished in *Self* v. *Hove* [1895]: approved in *Eastbourne* v. *Bradford* [1896].]

1895, Feb. 27. [533]
Vowles *v.* **Colmer.** "Public Health Act, 1875," § 13—V., a landowner, made a sewer in the half of a road adjoining his land, which he disposed of in building lots, charging the purchasers for connecting their premises with his sewer—C., the owner of a house on the other side of the road, connected his drain with V.'s sewer—Held that V. was not entitled to an Injunction to restrain C. from doing so. (64 L. J., Ch., 414: W. N., 1895, p. 42: 72 L. T., 389.) [Discussed in *Ferrand* v. *Hallas* [1893].]

1901, March 25. [534]
Webb *v.* **Knight.** "Public Health Act, 1875," §§ 4, 13—In considering whether a culvert for conveying the drainage from more than one house is a "sewer" or a "drain" within § 4, the test is whether the houses do in point of fact constitute one building only, or more than one — *Quære* whether a sewer carried across a neighbour's land by trespass does or does not vest in the Local Authority under § 13? (70 L. J., Ch., 663.)

1895, Feb. 26. [535]
West Ham Corporation *v.* **Great Eastern Railway.** "Railway and Canal Traffic Act, 1854," § 2 — The mere fact that Railway Companies make a charge to their passengers for the use of closets at their stations is not, in the absence of undue preference, a breach of their obligations under § 2—The Railway Commissioners have no jurisdiction to enjoin Railway Companies to provide free closets and to desist from making a charge for them. (64 L. J., Q. B., 340: 72 L. T., 395: 11 *Times* L. R. 264.)

1898, Jan. 26. [536]
Wood *v.* **Widnes Corporation.** "Public Health Act, 1875," § 36—A Local Authority must not pass a general resolution that a particular kind of water-closet shall be furnished to all houses—The requirements of each particular house must be separately considered; and the Local Authority has only power to require the provision of a "sufficient" closet for each particular house. (67 L. J., Q. B., 254: L. R., 1898, 1 Q. B., 463: 77 L. T., 779: 14 *Times* L. R., 192.)

1902, March 17. [537]
Woodford U. D. C. *v.* **Stark.** "Public Health Act, 1875," § 25—An Urban Authority may require a builder to construct a separate drain for the drainage of each house, and the powers of the Authority under the Section are not limited to questions of size, materials, and level — Authority therefore held entitled to prohibit one drain being made to serve for two houses. (86 L. T., 685: 66 J. P., 536: 18 *Times* L. R., 439.)

1894, Aug. 4. [538]
Wycombe Union *v.* **Parsons.** "Public Health Act, 1875," §§ 15, 95—Complaint against respondent that a nuisance arose from certain closets of his connected with a certain drain or sewer—The Local Authority, 30 years previously, had converted an open drain into a pipe sewer to receive surface water and sink drainage from house of respondent's and from other houses, charging the owners with the cost—Subsequently defendant and other owners, unknown to the Authority, connected closets with the said sewer, and a nuisance was caused by respondent and other people jointly — Justices decided that respondent was within his rights, and that the Local Authority were in default for allowing their sewer to become a nuisance—Decision of Justices upheld. (71 L. T., 428.)

69. Statutes, Interpretation of.

1900, April 3. [539]
Cannan *v.* **Abingdon, E. of.** "Private Toll Act"—A bicycle is a "carriage," and liable to a toll chargeable on carriages. (69 L. J., Q. B., 517: L. R., 2 Q. B., 66: 82 L. T., 382: 16 *Times* L. R., 318.)

1899, Jan. 28. [540]
Gordon *v.* **Cann.** "Local Government Act, 1888," § 85: "Statutes (Definition of Time) Act, 1880"—The period between one hour after sunset and one hour before sunrise, during which lights are to be carried, must be computed according to local time and not according to sunrise and sunset at Greenwich. (68 L. J., Q. B., 434: 80 L. T., 21: 15 *Times* L. R., 165.)

1897, March. [541]
Hawke *v.* **Dunn.** "Betting Act, 1853," § 3—Betting *ring* held to be a "place." (66 L. J., Q. B., 364: L. R., 1 Q. B., 579.) [Over-ruled by *Powell* v. *Kempton* [1899]].

1892, May 23. [542]
Herron *v.* **Rathmines & Rathgar Improvement Commissioners.** "Special Water Act,"—"Deviation" from a plan means shifting a work from one site to another—It does not mean a right to alter not only a situation but to dispense with a large part of the work altogether—No Court can remodel arrangements sanctioned, or relax conditions imposed by Statute. (L. R., A. C., 498: 67 L. T., 658.)

1897, March 13. [543]
McInany *v.* **Hildreth.** "Betting Act, 1853," § 3—Vacant piece of ground open to the public held to be a "place." (66 L. J., Q. B., 376: L. R., 1 Q. B., 307: 76 L. T., 463: 13 *Times* L. R., 284.)

1898, July 15. [544]
Oxford, The, *v.* **London C. C.** "London County Council (Improvements) Act, 1897," § 42 (1c.)—Improvement charge authorised on property abutting on a certain street—Music hall abutting on 2 streets one only of which carried the improvement charge—Held that though the portions of the structure in the street liable to the charge were only subsidiary portions, yet they were not in fact independent of the main building, and therefore that the main building was assessable to the improvement charge, though it abutted on and had its principal entrance in another street which was not within the limits of charge. (67 L. J., Ch., 655: L. R., 2 Ch., 491: 79 L. T., 22.)

1899, March 14. [545]
Powell *v.* **Kempton Park Racecourse Company.** "Betting Act, 1853," §§ 1, 3—An uncovered but fenced-in inclosure held not to be a "place opened, kept, or used," &c. (68 L. J., Q. B., 392: L. R., A. C., 143: 80 L. T., 538: 15 *Times* L. R., 266.)

1893, July 24. [546]
Reg. *v.* **London County Council (1).** "Local Government Act, 1888," § 57—Burial ground formed under Acts of Anne—Held that such Acts were of a local and personal nature, and that the County Council had jurisdiction to make an Order under the Act of 1888 respecting them—*Quære* whether Prohibition is the proper remedy where the County Council is making an Order which they have no power to make, since it is doubtful whether the making of an Order is the exercise of a judicial function. (63 L. J., Q. B., 4: L. R., 2 Q. B., 454: 69 L. T., 580.)

1898, Nov. 17. [547]
Ross's Charity, In re. "Local Government Act, 1894," §§ 14, 72 (2)—Meaning of the term "Ecclesiastical Charity"—Held, that in one case before the Court the Parish Council could appoint new Trustees, but that in the other it could not. (68 L. J., Ch., 66: L. R., [1899] 1 Ch., D., 21: 79 L. T., 366: 15 *Times* L. R., 42.)

1901, Nov. 25. [548]
Simpson *v.* **Teignmouth & Shaldon Bridge Co.** "Local Act"—Bicycle held not to be a "carriage" within the Act; which was limited in its operation to carriages drawn by horses or other beasts of draught. (85 L. T., 726: 18 *Times* L. R., 104. Affirmed on appeal, Feb. 9, 1903, 19 *Times* L. R., 225).

1902, April 30. [549]
Smith *v.* **Kynnersley.** Special Act, authorising a toll "for every sledge, drag, or such-like carriage"—Held that a bicycle did not come within the words "such-like carriage." (66 J. P., 679: 18 *Times* L. R., 568.)

1893, May 16. [550]
Young *v.* **Fosten.** "Public Health (London) Act, 1891," § 42—A builder who is employed by the owner of a dwelling-house to repair a drain, and who repairs it so as to be a nuisance and injurious to health is "the person who undertook or executed the repair" of the drain within § 42, and may be proceeded against under that Section in the first instance, although the owner is not summoned. (69 L. T., 147: 41 W. R., 589: 57 J. P., 324.)

70. Street.

1899, Dec. 21. [551]
Armstrong *v.* **London C. C.** "London Building Act, 1894," §§ 5, 7—Land proposed to be laid out for building, by first of all forming a square at a distance from existing street; access to be by private roadways from which public were to be excluded by gates controlled by a porter—Held, that notwithstanding the special regulations proposed, the appellant had commenced to form a "new street" within § 7—*Wood* v. *London C. C.* [1895] disapproved of. (69 L. J., Q. B., 267: 81 L. T., 638: 16 *Times* L. R., 128.)

1897, March 15. [552]
Arter *v.* **Hammersmith Vestry.** "Metropolis Management Act, 1855," § 250: "Metropolis Management Act, 1862," § 112—The definition of "street" in the later Act includes only such places as are streets in the ordinary sense of the term, and does not include all places coming within § 250 of the earlier Act—The two definitions cannot be incorporated for the purpose of determining whether a particular place is, or is not, a "new street." (66 L. J., Q. B., 460: 76 L. T., 390.)

1899, Jan. 18. [553]
Attorney-General *v.* **Rufford.** "Towns Improvement Clauses Act, 1847," § 63—Country lane within Urban District defined for the greater part of its length by hedges—Buildings extending 485 ft. along the lane—The owner of the buildings, who was also owner of the land opposite, proposed to erect, opposite to the existing buildings, new buildings which would extend 233 ft. along the lane—Held that by the erection of these new buildings the lane would become "a new street" within § 63, and subject to the conditions of that section as to width—Injunction granted to restrain erection of any new buildings which would make the lane a new street less than 30 ft. wide. (68 L. J., Ch., 179: L. R., 1 Ch., 537: 80 L. T., 17: 15 *Times* L. R., 152.)

1896, April 27. [554]
Barton Regis R. D. C. *v.* **Stevens.** Non-compliance with By-Law requiring street to be of a certain width, and owner's plan twice disallowed—Nevertheless he went on with his works—Defence, that the new street was only an old street of narrower width to which the By-Law was not applicable—Held that the By-Law was valid, and had been contravened by the insufficient width of the street, though not by the non-provision of a separate cesspool for each house. (*Loc. Gov. Chron.*, 1896, p. 711: 12 *Times* L. R., 947.)

1896, Nov. 5. [555]
Battersea Vestry *v.* **Palmer.** "Metropolis Management Act, 1855," § 105: "Metropolis Management Amendment Act, 1862," § 77—A road which substantially has only land bounding or abutting upon it, and in which no houses have been built within 29 years, is not a "new street"—The adjacent owners are, therefore, not liable for paving expenses. (66 L. J., Q. B., 77: L. R., [1897] 1 Q. B., 220: 75 L. T., 362: 13 *Times* L. R., 20.)

1898, Oct. 31. [556]
Crosse *v.* **Wandsworth B. W.** "Metropolis Management Act, 1855," §§ 98, 105: "Amendment Act, 1862," §§ 77, 112—Where a Local Authority has done work on part of a country road under § 98, it is not thereby estopped from subsequently treating the whole of the road as a new street under § 105, when it becomes a "new street" within the meaning of the Act—"New Street," under § 112 of the Act of 1862, explained. (79 L. T., 351: 62 J. P., 807.)

1895, May 28. [557]
Davis *v.* **Greenwich B. W.** "Metropolis Management Act, 1855," § 105: "Amendment Act, 1862," § 112—An old turnpike road, of rural character, became a new street in the ordinary sense, by the erection of buildings—Held that it was within the terms of the Act of 1855, so that the District Board might pave it and charge frontagers; and this, through some slight temporary repairs had been previously done by the Board to the footway—The principle upon which paving expenses have been apportioned amongst owners cannot be questioned in any Court—*Semble*, that Turnpike Trustees are not amongst the Trustees referred to in § 112 of the Act of 1862. (64 L. J., M.C., 257: L. R., 2 Q. B., 219: 72 L. T., 674.)

1902, March 26. [558]
Devonport Corporation *v.* **Tozer.** Houses erected on vacant land which abutted on two public highways—No interference with road or fences except to cut openings necessary for access—Injunction claimed for laying out new street in contravention of By-Laws—Held (1) that the defendant had not laid out a "new street;" and (2) that, as for Breaches of By-Laws there was a special statutory remedy, an Action for an Injunction was misconceived and could not be maintained—*Grand Junction Waterworks* v. *Hampton* [1898] followed. (71 L. J., Ch., 754: L. R., 2 Ch., 182: 86 L. T., 612. Affirmed on appeal, Feb. 18, 1903, 19 *Times* L. R., 257).

1902, March 18. [559]
Finchley Electric Light Co. *v.* **Finchley U. C.** "Public Health Act, 1875," § 149—Where the site of a road was originally conveyed in fee simple for a turnpike road, and the road afterwards becomes a highway, the whole estate once vested in the Turnpike Trustees passes to the Urban Authority; and that Authority may prevent electric wires being carried over the road at any height whatever. (71 L. J., Ch., 450: L. R., 1 Ch., 866: 86 L. T., 287: 66 J. P., 502. Reserved on appeal, Feb. 11, 1903, 19 *Times* L. R., 238).

1893, Jan. 18. [560]
Friern Barnet L. B. *v.* **Great Northern Railway Co.** "Railway Clauses Act, 1845," §§ 56, 57: "Public Health Act, 1875," § 150—Part of highway shut up and diverted in making railway, and an occupation road leading from it altered and new road substituted—Held that the road as altered was not a "new" road as to which § 150 was applicable, and that therefore the Railway Company was not liable for paving expenses. (57 J. P., 53.)

1894, Jan. 15. [561]
Gozzett *v.* **Maldon U. S. A.** "Public Health Act, 1875," § 157—G., lessee of a piece of ground with right of way over an adjoining road, began to build two houses on his ground — Summons for laying out a new street less wide than required by the Building By-Laws—Held that what G. had done did not amount to laying out a new street. (L. R., 1 Q. B., 327: 70 L. T., 414: 57 J. P., 229.)

1898, April 1. [562]
Lodge *v.* **Huddersfield Corporation (No. 1).** "Local Government Act, 1888," § 11: Local Act—The Local Act gave power to Corporation to order in any street the construction of foot-ways, and that, on default by frontagers, Corporation might execute and recover expenses—Held that where the Municipal Borough had become a County Borough § 11 had not the effect of repealing the provisions of the Local Act as regards streets which were main roads within the "Highways Act, 1878." (67 L. J., Q. B., 568: L. R. 1 Q. B., 847: 78 L. T., 422.)

1895, June 12. [563]
London C. C. *v.* **Davis (1).** "Metropolis Management Amendment Act, 1882," §§ 7, 8—Two blocks of artisans dwellings with open passage between them—The passage gave access to the blocks on either side, but the entrance to the passage was shut off by gates from the public street—Held that the magistrate could properly hold that the passage was not a "road, passage, or way laid out as a street for foot traffic" within the above sections. (64 L. J., M. C., 212: 43 W. R., 574: 11 *Times* L. R., 456.)

1899, Feb. 15. [564]
London C. C. *v.* **Dixon.** "London Building Act, 1894," § 8—House built at the corner of an open piece of land, over which the builder had no control, but which he expected would be formed into a street—Proviso held applicable, and builder not considered to have commenced "to form or lay out a street." (68 L. J., Q. B., 526: L. R., 1 Q. B., 496: 80 L. T., 232: 15 *Times* L. R., 206.)

1893, June 19. [565]
London C. C. *v.* **Lawrence.** "Metropolis Management Act, 1862," § 85—A house at the corner of an old and a new street is "erected on the side of a new street" although its main frontage is in the old street. (62 L. J., M. C., 176; L. R., 2 Q. B., 228: 69 L. T., 344: 9 *Times* L. R., 521).

1894, April 4. [566]
London C. C. *v.* **Mitchell.** "Metropolis Management Amendment Act, 1878," § 6—The Proviso limiting the application of the Section applies only where the street was actually in existence as a street for building when Act was passed—It does not apply to a mere country road. (63 L. J., M. C., 104.)

1898, May 19. [567]
Mansfield Corporation *v.* **Butterworth.** "Private Street Works, 1892," §§ 7, 8—Objection taken to proposed works on the ground that they were insufficient and unreasonable—Evidence that the works were necessary, but the Justices allowed the objections, holding that the works were insufficient because the street was too narrow at one point and the proposals of the Corporation did not include the widening which the Justices deemed necessary—Held that this was a side issue which the Justices were not entitled to consider, and that the expression "insufficient" in § 7 (*d.*) limited their jurisdiction to determining whether the works were insufficient to effect the purpose proposed to be effected by them. (67 L. J., Q. B., 709: L. R., 2 Q. B., 274: 78 L. T., 527: 14 *Times* L. R., 431.)

1902, March 22. [568]
Property Exchange Limited *v.* **Wandsworth B. W.** "Metropolis Management Acts, 1855, 1862"—Road already occupied on one side by houses before 1855, widened by the addition to the road of a strip of land on the other side, and new houses erected on that other side—Added strip held to be a "new street," so that expenses of paving the added strip were chargeable only to the frontagers of such strip, and not to the frontagers on both sides of the whole widened road—*Richards* v. *Keesick* [1888] and *White* v. *Fulham* [1896] approved. (71 L. J., K. B., 515: L. R., 2 K. B., 61: 86 L. T., 481: 66 J. P., 435: 18 *Times* L. R., 464.)

1897, Dec. 21. [569]
Rishton *v.* **Haslingden Corporation.** "Private Street Works, 1892," §§ 5, 6.—Back street (with an old and "insufficient" drain) separating back premises of 2 rows of houses held under the circumstances a highway repairable by the inhabitants at large, and not a street within the above § 5 so as to be the subject of a notice to frontagers—*Handsworth* v. *Taylor* [1893] explained. (67 L. J., Q. B., 387: L. R. [1898] 1 Q. B., 294: 77 L. T., 620: 14 *Times* L. R., 155.)

1900, April 30. [570]
Robertson *v.* **Bristol Corporation.** "Public Health Act, 1875," § 150—When a Local Authority take over a street they must take it as they find it, and have no power to alter the relative widths of the carriage-way and foot-way. (69 L. J., Q. B., 590: L. R., 2 Q. B., 198: 82, L. T., 516: 64 J. P., 389; 16 *Times* L. R., 359.)

1895, Feb. 26. [571]
St. George's L. B. *v.* **Ballard.** "Public Health Act, 1875," § 157—The owner of a strip of land by the side of a lane which ran into a road began to build a house fronting the road and with its side abutting on the lane—There was nothing to show any intention of building other houses along the lane—Held that the owner was not laying out a new street. (64 L. J., Q. B., 547: L. R., 1 Q. B., 702: 72 L. T., 345: 11 *Times* L. R., 263.)

1900, April 9. [572]
Simmonds *v.* **Fulham Vestry.** "Metropolis Management Act, 1855," § 105: "Metropolis Amendment Act, 1862," § 77—An ancient highway may become a "new street," and the owners of the one side built upon may be chargeable though the other side is vacant land—Though the Local Authority cannot exercise its powers under the above enactments more than once in the same street, it is not prevented from exercising the powers as regards an ancient highway which has become a new street, however long since it became a new street and notwithstanding that it was already paved when it became a new street—*Bonella* v. *Twickenham* [1887] distinguished. (69 L. J., Q. B., 560: L. R., 2 B. Q., 188: 82 L. T., 497.)

1901, Nov. 27. [573]
Walker U. D. C. *v.* **Wigham, Richardson, & Co.** "Public Health Act, 1875," § 26—An arched subway constructed under a street by the lessees of the adjacent properties for the reception of electric wires is "a vault, arch, or cellar," which the Local Authority may demand to have removed—But the Local Authority cannot disturb such wires when the pipes containing them do not lie actually within the subway, but rest upon the clay within it so that the subway can be removed without interfering with them — *Quære*, whether a Municipal Body, invested with certain trading powers, can use rights given them for the protection of the public health for the incidental purpose of injuring a trade competitor. (85 L. T., 579: 66 J. P., 152: 18 *Times* L. R., 107.)

1897, Jan. 13. [574]
Wetherby R. D. C. *v.* **Hewling.** "Public Health Act, 1875"—Whether the building of houses at the side of an ancient highway amounts to the laying out of a "new street" within By-Laws to regulate the width of new streets is a question of fact—A person built some new houses opposite 6 old houses, having previously stated his intention of widening the road to the width prescribed for new streets—This he afterwards refused to do—Held that these facts were evidence indifferently either that he had or had not laid out a new street—If Justices convict on the ground that the By-law has been contravened, they must not turn round and hold on a second summons as for a continuing offence that it has not been contravened—Case remitted. (*Loc. Gov. Chron.*, 1897, p. 69.)

1895, Aug. 6. [575]
Wood *v.* **London C. C.** "London Building Act, 1894," § 7—The quadrangle of a block of mansions having only one entrance from the public highway, and that closed in by gates and intended exclusively for the use of the residents in the mansions, is not a "street" within § 7. (64 L. J., M. C., 276: 73, L. T., 313: 11 *Times* L. R., 578.) [Disapproved of in *Armstrong* v. *London C. C.* [1899].]

1898, April 6. [576]
Woodham *v.* **London C. C.** "London Building Act, 1894," § 9—This Section gives power to Council to refuse to sanction any new street which would not afford "direct communication" between two existing streets—Held that the question whether a proposed street would or would not do this was a question of fact to be determined by the Council with which the Court would not interfere—In this case an awkward right-angled turn was proposed. (67 L. J., Q. B., 707: L. R., 1 Q. B., 863: 78 L. T., 553.)

71. Surety.

1899, March 1. [577]
Caxton & Arrington Union *v.* **Dew.** Rate Collector's bond—Neglect of obligees to inform Sureties of defalcations—A Rate Collector's Sureties are not released by his non-dismissal on the obligees becoming aware of his having been in arrear with public money when such money has not been collected by him in an office held under them—Or where the obligees have not the power to dismiss him, having done all they could to procure his dismissal—Nor by the neglect of the obligees, on becoming aware of his having been so in arrear, to inform the sureties, where from the family relationship and transactions between the collector and the sureties it cannot be supposed that the sureties were ignorant of it. (68 L. J., Q. B., 380: 80 L. T., 325.)

72. Surveyor.

1900, Dec. 17. [578]
Marsland *v.* **Wallis.** "London Building Act, 1894," §§ 21, 154—Surveyor's fees held to be regulated by a prior Act where a building was erected on land which belonged to the London School Board at the time the Act of 1894 came into operation. (83 L. T., 761.)

1902, May 15. [579]
Westminster City Council *v.* **Watson.** "London Building Act, 1894," §§ 84, 145: "London Government Act, 1899," Sched. II., pt. 1.—The duties of District Surveyors as to the inspection of wooden structures in the Metropolis under the Act of 1894, have not been transferred to the Borough Councils and their officers; and notices under § 145 must still be served upon them—The District Surveyors are entitled to fees when the case is a proper one for their inspection. (71 L. J., K. B., 603: L. R., 2 K. B., 717: 87 L. T., 326: 18 *Times* L. R., 621.)

1901, May 3. [580]
Whitechapel B. W. v. Crow. "Electric Lighting Acts, 1882, 1888: "London Building Act, 1894," § 145—Board being both Highway Authority and Local Authority for Electric Lighting, summoned for not giving notice to the District Surveyor as required by the Act of 1894—Conviction. (84 L. T., 595.)

73. Time, Computation of.

1896, Nov. 5. [581]
Manchester, Sheffield & Lincolnshire Railway v. Doncaster Union. "Poor Law (Payment of Debts) Act, 1859" (22 and 23 Vict., c. 49), §§ 1, 4—Where Guardians are ordered to pay the costs of an Appeal, time runs from the date of the taxation of the Costs, and not from the date of the Judgment. *West Ham* v. *St. Matthew B. G.* [1896] followed. (66 L. J., Q. B., 75: L. R. [1897] 1 Q. B., 117: 75 L. T., 472: 13 *Times* L. R., 19.)

75. "Towns Police Clauses Act, 1847."

1900, Feb. 5. [582]
Jobson v. Henderson. "Towns Police Clauses Act, 1847:" "Public Health Act, 1875," § 253—The latter Act does not control the former Act so as to prevent the Police prosecuting for offences against the former Act without the prior sanction of the Local Authority. (82 L. T., 260: 64 J. P., 425.)

1894, Oct. 30. [583]
Reg. v. Kerswill. "Towns Police Clauses Act, 1847," § 66: "Summary Jurisdiction Act, 1879," § 35—An Order to pay a cab fare and Costs under the above § 56 is an Order to pay money claimed and recoverable in a Court of Summary Jurisdiction within § 6 of the last-named Act, and is therefore not enforceable by imprisonment, but only as a civil debt under § 35 of the Act of 1879. (64 L. J., M. C., 70: L. R., [1895] 1 Q. B., 1: 71 L. T., 574: 11 *Times* L. R., 8.)

1901, Nov. 18. [584]
Rex v. Thomas. "Towns Improvement Clauses Act, 1847," § 131—In proceedings for penalties under this Section it is not necessary that the summons should be issued by the same Justice as the Justice who condemns the meat and adjudges the penalty. (18 *Times* L. R., 71.)

76. Tramways.

1902, July 15. [585]
Attorney-General v. Bournemouth Corporation. "Tramways Act, 1870," § 18—A Board of Trade Notice is not the exclusive or only notice of the non-commencement of works which the Court could receive—Land purchased for a generating station, and contracts for the supply of materials made, but nothing actually done towards the execution of the proposed works or the performance of the contracts—Held there had not been a "substantial commencement" within the year as required by § 18—"Works" means physical works. (71 L. J., Ch., 730: L. R., 2 Ch., 714: 87 L. T., 252: 18 *Times* L. R., 744.)

1901, May 2. [586]
Barnett v. Poplar Borough. "Tramway Act, 1870," §§ 28, 29—Where a Road Authority contracts with a Tramway Company to repair a part of a road the duty to repair which primarily attaches to the Company, the Road Authority is liable in damages to a person sustaining injury by reason of the failure of the Road Authority to repair. (70 L. J., K. B., 698: L. R., 2 K. B., 319: 84 L. T., 845: 17 *Times* L. R., 461.)

1899, June 20. [587]
Bristol Tramways Co. v. National Telephone Co. A Telephone Company, acting under a license from the Postmaster-General, need not, for the purpose of laying telephone wires, obtain the previous consent of a Tramway Company before breaking up a street in which a tramway is laid, even though the Tramway Company is liable for the repair of the road. (68 L. J., Ch., 566: L. R., 2 Ch., 282: 80 L. T., 836: 15 *Times* L. R., 430.)

1900, July 5. [588]
Hyde, Mayor v. Oldham Electric Tramway. "Tramways Act, 1870," §§ 3, 26—These Sections do not authorise the opening or breaking up of footways, only of carriageways, and a Tramway Company, unless expressly authorised by Statute, cannot break up a footway without the consent of the Urban Authority. (64 J. P., 596: 16 *Times* L. R., 492.)

1902, Feb. 7. [589]
London C. C. v. Attorney-General. A statutory power to work a tramway does not include power to carry on the business of an omnibus proprietor—What a Statute does not expressly or impliedly authorise is to be deemed prohibited. (71 L. J., Ch., 268: L. R., A. C., 165: 86 L. T., 161: 66 J. P., 340: 18 *Times* L. R., 298.)

1894, July 31. [590]
London Street Tramways v. London C. C. Special Act authorising purchase of Tramways by Local Authority—"Tramway" meant the structure laid down and nothing more, and did not include the Company's statutory powers—Arbitrator right in rejecting evidence as to past and future profits, including evidence of rental value of the tramways considered as lettable—"The then

value of the tramway and all lands, and buildings, works, &c.," must be measured by what it would cost to establish the tramway, if it did not then exist, subject to a proper deduction in respect of depreciation. (L. R., A. C., 489: 71 L. T., 301: 10 *Times* L. R., 630.)

1902, July 28. [591]
Manchester Tramways Co. and Manchester Corporation Arbitration, In re. "Tramways Act, 1870," § 43—Where part of a system of Tramways within the District of a Local Authority already belongs to the Authority, though worked by the Promoters of the rest of the system as one concern, the Local Authority when purchasing the Promoter's portion is bound, under § 43, to take all the lands, works, materials, and plant suitable, and in use. (87 L. T., 504: 18 *Times* L. R., 779.)

1895, Dec. 13. [592]
North Metropolitan Tramways Co. *v.* **London C. C.** (1.) "Tramways Act, 1870," § 43—A Local Authority has power to purchase within 21 years a tramway under this Section, even though subsequent to its original authorisation other tramways may have been joined to it and been incorporated with it, as to which the right to purchase has not been acquired by the Local Authority. (60 J. P., 23: 12 *Times* L. R., 101.)

1896, Dec. 14. [593]
Ogston *v.* **Aberdeen Tramways Co.** Although Road Authorities are invested with large discretionary powers in regard to cleansing streets, and a Court of Law would be unwilling to interfere with a due exercise of that discretion, they have no power or discretion in the case of a nuisance which the Legislature has not expressly or by implication sanctioned, either to commit it themselves, or to authorise its commission—A Tramway Company cleared its track of snow by means of a snow-plough, whereby the snow was left in heaps by the side of the streets—Salt was then scattered on the track and on the sides—The Town Council did not take any immediate steps to remove the briny slush so produced—Held that a legal nuisance had been committed which was not authorised by any Tramway Act; and that the default (if any) of the Town Council did not affect the primary liability of the Tramway Company. (66 L. J., P. C., 1: L. R., [1897] A. C., 111: 75 L. T., 633: 13 *Times* L. R., 123.)

1896, March 20. [594]
Pegge *v.* **Neath Tramways Co.** "Tramways Act, 1870"—Provisional Order thereunder—Proceedings by Road Authority to distrain for non-payment of penalties ordered to be paid for default in repairs—Company's property in hands of receiver—Held that the receiver was to put the roads in repair, and that meanwhile the County Council was not to enforce the penalties without the leave of the Court. (65 L. J., Ch., 536: L. R., 1 Ch., 684.)

1893, May 16. [595]
Rapier *v.* **London Tramways Co.** Tramway Act authorising horse traction—No express authority to provide stables—Held that, though horses were necessary for working the tramways, the Company were not justified by their statutory powers in using the stables so as to be a nuisance to neighbours—No defence that they had taken all reasonable care to prevent a nuisance. (63 L. J., Ch., 36: L. R., 2 Ch., 588: 69 L. T., 361: 9 *Times* L. R., 468.)

1899, Nov. 17. [596]
Southampton Tramways Co. & Southampton Corporation, In re. "Tramways Act, 1870:" Local Act—The Special Act authorised the Corporation to buy the tramways upon terms which might, if need be, be settled by an Arbitrator acting under the "Lands Clauses Acts"—Held that the Arbitrator rightly treated the undertaking as one which the Company only enjoyed subject to the risk of being compelled to sell it under § 43 of the Act of 1870, a contingency which tended to lower the saleable value. (81 L. T., 652: 16 *Times* L. R., 38.)

1902, Feb. 18. [597]
Wilkinson *v.* **Newcastle-on-Tyne, Mayor.** Local Tramways Act—Tramway junction not shown on deposited plans, and laid down within 2 ft. of a footpath opposite plaintiff's premises though Act prescribed a minimum distance of 9½ ft.—Injunction granted for removal of so much of tramway as was not delineated on deposited plans. (18 *Times* L. R., 332.)

77. Treasurer.

1802, March 26. [598]
Rex *v.* **Warwickshire J.J.** "Local Government Act, 1888," §§ 32, 100—Where a Borough is a County Borough with a separate Commissioner of the Peace, but has no separate Court of Quarter Sessions, the Costs of the Licensing Justices, on a successful appeal to Quarter Sessions against their decision, are not payable by the Treasurer of the Borough under the "Alehouse Act, 1828," § 29, but by the Treasurer of the County. (86 L. T., 568: 18 *Times* L. R., 492.)

79. Water Company, Powers, &c., of.

1901. Feb. 4. [599]
Andrews, *v.* **Witts.** "Waterworks Clauses Act, 1863," § 18—Agreement by Water Company to supply to a Rural District Council water for

domestic purposes for the washing of carts, and for use in case of fire, but not for street watering or sewer flushing—Use of water by a ratepayer for his trade purposes held an offence against § 18, for which the Water Company was entitled to take proceedings against him. (84 L. T., 124: 65 J. P., 281.)

1902. July 19. [600]
Barnard Castle U. C. *v.* **Wilson.** "Waterworks Clauses Act, 1847," § 83: "Waterworks Clauses Act, 1863," § 12—Large swimming bath at school accommodating 300 boarders—Held that the water for the bath was not for "domestic purposes" within the former Act, but was for a "business" purpose under the latter Act. (70 L. J., Ch., 859: L. R., 2 Ch., 746: 87 L. T., 279.)

1894, March 2. [601]
Bognor Water Co. *v.* **Bognor L. B.** Water Company's Special Act, modifying § 52 of the "Public Health Act, 1875"—Notice by Board of its intention to supply water, Company having failed to do so—Matter referred to Arbitration—Decision of Arbitrators that Company was "able and willing" to supply—Action to restrain Board from going on with any works—Held that Board must pay the Company's costs, setting off, however, any costs incurred by the Board in resisting Company's application for an Injunction to restrain arbitration. (70 L. T., 402.)

1899, May 1. [602]
Brock *v.* **Harrison.** "Waterworks Clauses Act, 1847," § 72: Special Act—Where a house is let to a tenant at a rent not exceeding £10, so that the owner is liable to pay for the water instead of the occupier, the owner is a "person supplied with water" within the Special Act, and it is his duty to take care that the water is not wasted. (68 L. J., Q. B., 730: L. R., 1 Q. B., 958: 80 L. T., 568.)

1902, May 13. [603]
Bwllfa and Methyr Collieries and Pontypridd Waterworks Co., In re. "Lands Clauses Acts:" "Waterworks Clauses Act, 1847"—When a notice has been given to the owner of a coal mine not to work the coal under and near a reservoir, the Arbitrator, in estimating the compensation payable by Water Company to coal-owner, can only take into consideration the facts existing at the date of notice: and cannot take into consideration a subsequent fact, that coal rose in value after the date of the notice. (71 L. J., K. B., 613: L. R., 2 K. B., 135: 87 L. T., 291.)

1894, Nov. 9. [604]
Cleveland Water Co. *v.* **Redcar L. B.** "Public Health Act, 1875," §§ 51, 52, 55—"Waterworks" in § 52 means new waterworks—Where a Local Authority has, previous to the passing of a Private Company's Act, provided substantial waterworks, § 52 (with which § 51 must be read) does not restrain the Local Authority from adding to or improving them. (64 L. J., Ch. 64: L. R., [1895] 1 Ch., 168: 11 *Times* L. R., 28.)

1894, July 16. [605]
East London Water Co. *v.* **Charles.** "Waterworks Clauses Act, 1847," §§ 74, 85: "Summary Jurisdiction Act, 1848," § 11—This last-named Section applies to the hearing of a summons for arrears of water-rate, and where the sum accrued due more than 6 months before the date of the summons, Justices have no jurisdiction. (63 L. J., M. C., 209: L. R., 2 Q. B., 730: 71 L. T., 200: 10 *Times* L.R., 593.)

1894, March 9. [606]
East London Water Co. *v.* **Foulkes.** "Waterworks Clauses Act, 1874," §§ 70, 71—When a house is unoccupied at the beginning of a quarter, but becomes occupied during that quarter, water-rent is only payable for the occupied portion, though the Company had no notice of occupation and the water was left on. (L. R., 1 Q. B., 819: 57 J. P., 384.)

1894, Oct. 25. [607]
East London Water Co. *v.* **Kyffin.** "Railways Clauses Act, 1845," § 140: "Waterworks Clauses Act, 1847," §§ 70, 74: Special Act—Where a summons has been taken out for arrears of water-rent, it is not a condition precedent to the jurisdiction of Justices that a demand should have been made before issue of the summons. (64 L. J., M. C., 32: L. R., [1895] 1 Q. B., 55: 71 L. T., 615.)

1902, Aug. 4. [608]
Edinburgh Water Trustees *v.* **Clippens Oil Co.** "Waterworks Clauses Act, 1847," § 22—Two waterpipes running side by side, one laid down under a Local Act, the other under a Special Act incorporating the General Act of 1847—Notice by mine-owner of his intention to work minerals underneath the latter pipe—Counter-notice by Water Company—Question of compensation referred to Arbitrator—Complicated facts, owing to the 2 pipes being laid under different Acts—Arbitrator's decision final. (87 L. T., 275.)

1900, March 23. [609]
Flack, In re: Berry, Ex. parte. "Waterworks Clauses Act, 1847:" "Metropolis Water Act, 1871," § 48—Debtor adjudicated bankrupt—Possession taken of his business premises by Trustee, who found water-rent in arrear—Trustee offered to pay in advance for future water—This declined by Company unless arrears paid—Water cut off—Trustee paid arrears under protest—Held that the Trustee was "an incoming tenant," and as

such was not liable for arrears, and was entitled to recover back the amount paid under protest. (69 L. J., Q. B., 458: L. R., 2 Q. B., 32: 82 L. T., 503.)

1895, May 13. [610]
Glasgow, Lord Provost *v.* Glasgow & South Western Railway. "Waterworks Clauses Act, 1847," §§ 28, 29—A Water Company in laying its pipes is not entitled to cut through plates lying on the top of a girder railway bridge, for the purpose of suspending water mains from the bridge, without coming to an agreement with the owner of the bridge. (L. R., A. C., 376: 72 L. T., 809.)

1894, July 5. [611]
Grand Junction Water Co. *v.* Brentford L. B. "Waterworks Clauses Act, 1847," §§ 38-41: "Public Health Act, 1875," § 66—These enactments impose no obligation on an Urban Authority to bear the expense of maintaining fire-plugs, unless such have been fixed by the Authority or at its request—The mere user of fire-plugs by the Authority is not sufficient to imply a request to the Water Company, or an agreement under § 66 to fix fire-plugs. (63 L. J., Q. B., 717: L. R., 2 Q. B., 735: 71 L. T., 240: 10 *Times* L. R., 572.)

1897, July 3. [612]
Grand Junction Water Co. *v.* Davies. "Waterworks Clauses Act, 1847," § 68—In determining the annual value of a residential tenement for the purposes of water supply to the dwelling-house for domestic purposes only, it is not competent to Justices to exclude a portion of the garden enjoyed with the dwelling-house, and thus curtail the area to be assessed—The Section contemplates the mere valuation of the existing tenement as the owner and occupier choose to enjoy it. (66 L. J., Q. B., 633: L. R., 2 Q. B., 209: 76 L. T., 833: 13 *Times* L. R., 489.)

1893. [613]
Hill *v.* Wallasey L. B. "Waterworks Clauses Act, 1847:" "Public Health Act, 1875"—A private road is a "street" within §§ 16, 54, of the Act of 1875—An Urban Authority which has the control of streets and power to supply water, may break up the soil of such a road, without the owner's consent, for the purpose of supplying inhabitants with water, making him compensation under § 308—§ 57 of the Act of 1875 applies only where Local Authorities have not the control generally of streets in their district. (63 L. J., Ch., 1: L. R., [1894] 1 Ch., 133: 69 L. T., 641: 10 *Times* L. R., 73.)

1898, May 24. [614]
Horn *v.* Sleaford R. C. "Public Health (Water) Act, 1878," § 10—A Local Authority, duly required under the Act to supply water in a contributory place, is not bound to charge water-rates or rents sufficient to meet instalments of principal and interest of a loan raised for the construction of the necessary works of supply—Yet it may do so, as well as charge for the current expenses of the supply. (67 L. J., Q. B., 724: L. R., 2 Q. B., 358: 78 L. T., 722.)

1967, May 31. [615]
Huddersfield Corporation *v.* Ravensthorpe U. D. C. "Public Health Act, 1875," § 52: "Local Government Act, 1888," §§ 57, 59: Local Acts—The H. Corporation empowered to supply water within the M. and R. districts—The R. Local Authority had undertaken to supply its own District before 1875—In 1895 part of M. was transferred to R. Held that the R. Local Authority, by extending their mains into the added area, were "commencing to construct waterworks" within the H. limits, and that the H. Corporation was entitled to restrain by Injunction the R. Council—*Cleveland* v. *Redcar* [1894] distinguished. (66 L. J., Ch., 581: L. R., 2 Ch., 121: 76 L. T., 817: 13 *Times* L. R., 441.)

1893, May 16. [616]
Jones *v.* Conway and Colwyn Joint Water Board. "Public Health Act, 1875," § 54—A Local Authority which has power to, and is taking steps to, supply water, does "supply water" within the Section—A Local Authority, which has the consent of an adjoining Local Authority to lay down mains in the adjoining District, can only do so after complying with §§ 32-34 as to notices to owners, etc. (69 L. J., Ch., 767: L. R., 2 Ch., 603: 69 L. T., 265: 9 *Times* L. R., 469.)

1896, Feb. 13. [617]
Kyffin *v.* East London Water Co. "Waterworks Clauses Act, 1847:" "Metropolis Water Act, 1871"—Failure to supply—It is for the Metropolitan Authority for the District, and not for an individual householder, to proceed for penalties under § 16 of the Act of 1871—An aggrieved householder can only recover penalties under § 43 of the Act of 1847. (65 L. J., M. C., 60: L. R., 1 Q. B., 446: 74 L. T., 141: 12 *Times* L. R., 201.)

1900, Jan. 19. [618]
London C. C. *v.* East London Waterworks Co. "Waterworks Clauses Act, 1847:" various Metropolitan Acts—Fire-plugs, etc., provided under Statutory Powers for the supply of water in the case of fire, may be used by the Water Company for purposes other than fire purposes and street cleansing purposes without the consent of the Council, and, by permission of the Company, may be used by persons other than the Company. (69 L. J., Q. B., 304: L. R., 1 Q. B., 330: 82 L. T., 268: 16 *Times* L. R., 141.)

1901, April 29. [619]
New River Co. *v.* **Wilmot.** "Metropolitan Board of Works (Various Powers) Act, 1885," § 11—New street made by appropriating lands belonging to a Water Company—New water-main laid by agreement in substitution for existing main—A portion of the land conveyed to third party—Interference with statutory and guaranteed rights of user and access—Action for declaration of rights of plaintiff, and for an Injunction—Judgment for plaintiffs. (*Loc. Gov. Chron.*, 1901, p. 488.)

1902, Aug. 4. [620]
Northampton Corporation *v.* **Ellen.** Local Water Act authorising a charge of 7½ per cent. on the net rateable value—This charge levied — Borough boundaries extended — Decision of the Corporation only to charge 5 per cent. to the inhabitants of the added area—Held that the Corporation had no power thus to differentiate their charges—A Water Rate is not a "Rate" within the meaning of the words "any other Rate" in computing the poundage of the aggregate of various Local Rates—It is merely the price commercially to be paid for article of trade, to wit water, supplied to customers. (87 L. T., 335: 66 J. P., 744.)

1901, Nov. 22. [621]
Pidgeon *v.* **Great Yarmouth Waterworks Co.** Special Act.—A lodging-house keeper claimed a supply of water at the "domestic" rate for the use of a house inhabited by himself and family and boarders—Held that he was entitled to such supply, and that the Company was not entitled to demand payment on the basis of an agreement, though the Special Act authorised agreements to be made for water required for "any trade, manufacture or business." (71 L. J., K. B., 61: L. R., [1902] K. B., 310: 85 L. T., 632: 66 J. P., 309.)

1899, Oct. 26. [622]
Roberts *v.* **Gwyrfai R. C.** "Public Health Act, 1875," § 51—A Local Authority has no power, in performing its duty of providing its District with water, to deprive a riparian owner of his accustomed flow of water without his consent in writing—By altering the flow of water the Authority is "injuriously affecting" the Common Law right of the riparian proprietor, and will be restrained without proof of sensible damage to him. (68 L. J., Ch., 757: L. R., 2 Ch., 608: 81 L. T., 465: 16 *Times* L. R. 2.)

1898, Aug. 8. [623]
Southwark & Vauxhall Water Co. *v.* **Wandsworth B. W.** "Metropolis Management Act, 1885," § 98—Water pipes laid by Company — Surface of road lowered by Local Authority—Action by Water Company to restrain Highway Authority unless the Highway Authority also lowered the water-pipes correspondingly—Held that § 98 did not impose on the Highway authority any express or implied duty to lower the pipes in the interest of the Water Company, if it was not necessary to do so for highway purposes—*Gas Light & Coke Co.* v. *St. Mary Abbot's Kensington* [1885] distinguished; *Gaddis* v. *Bann* [1878] distinguished and explained. (67 L. J., Ch., 657: L. R., 2 Ch., 603: 79 L. T., 132: 14 *Times* L. R., 576.)

1899, Oct. 26. [624]
Uckfield R. C. *v.* **Crowborough Water Co.** "Water Works Clauses Act, 1847," § 93: "Public Health Act, 1875," § 157: Special Act—Water tower authorised by Special Act—Held that in the erection of their tower the Water Company were not exempted by the Act of 1847 from the duty of complying with building By-Laws authorised by the Act of 1875. (68 L. J., Q. B., 1009: L. R., 2 Q. B., 664: 81 L. T., 539: 16 *Times* L. R., 3.)

1894, April 11. [625]
Walker *v.* **Lambeth Water Co.** Special Act wherein it was provided that "domestic purposes" should not include "a supply for baths"—Held that a fixed bath in a private house supplied by the Company's main through a tap affixed to the bath was within the exception—*Sed aliter* for movable hip-baths, &c. (63 L. J., Ch., 874: 71 L. T., 75: 10 *Times* L. R., 401.)

1899, Jan. 17. [626]
West Lancashire R. D. C. *v.* **Ogilvy.** "Public Health Act, 1875," § 62: "Public Health (Water) Act, 1878," § 3—Where a Local Authority requires a house-owner to obtain a supply of water under § 62, and on his default proceeds to execute the works and recover the cost, it is no defence for the owner to show that the expenses are unreasonable—His remedy is appeal to the Local Government Board under § 268—The Act of 1878 does not curtail the powers of the Local Authority under § 62 of the Act of 1875. (68 L. J., Q. B., 215: L. R., 1 Q. B., 377: 80 L. T., 162.)

1894, July 11. [627]
West Surrey Water Co. *v.* **Chertsey Union.** "Public Health Act, 1875," § 52—This Section does not prohibit a Local Authority from constructing works to obtain water for their own purposes, *e.g.* flushing sewers, but only from doing so for the supply of the public. (L. R., 3 Ch., 513: 71 L. T., 368: 10 *Times* L. R., 581.)

1897, Nov. 3. [628]
Williams *v.* **Llandudno U. D. C.** "Waterworks Clauses Act, 1863," § 19 — For a tenant to affix a stop-tap to a service pipe

without the consent of the Undertakers is an Offence, even though the affixing of the tap cannot lead to any waste or misuse of the water. (14 *Times* L. R., 18.)

1893, May 16. [629]
Young *v.* **Southwark Water Co.** "Public Health (London) Act, 1891," § 49—The owner of a house had a stop-cock which was his own property between the house and the street main—The Water Company, finding the stop-cock leaky, turned it and shut off the water, which remained shut off till the stop-cock was repaired—Held that the Water Company had not "cut off" the water within § 49 so as to bring them under the obligation of giving notice to the Local Authority. (69 L. T., 144: 41 W. R., 622: 57 J. P., 806.)

80. Water, Pollution of.

(1.) By Gas.

1898, April 23. [630]
High Wycombe Corporation *v.* **Thames Conservators.** "Thames Conservancy Act, 1894," § 92—Offensive matter from Gas-works passed on to a sewage farm, was insufficiently purified, and then allowed to flow into the Thames—The nuisance might easily have been mitigated, but it was not shown that the officers of the Corporation were aware of the extent of the nuisance—Held that the Corporation had not "wilfully" suffered the matter to pass into the river. (78 L. T., 463: 14 *Times* L. R., 358.)

(2.) By Sewage.

1897, July 22. [631]
Derby Corporation *v.* **Derbyshire C. C.** "Rivers Pollution Act, 1876," §§ 3, 10—Where a Statute creates an offence and empowers County Court to make an Order requiring a person to abstain from the offence, and also to impose a penalty on a person disobeying the Order, the County Court may, in proceedings taken to obtain an Order, grant discovery against the defendant because discovery in proceedings to obtain an Order could not expose defendant to a penalty. (66 L. J., Q. B., 701: L. R., A. C., 550: 77 L. T., 107.)

1897, June 30. [632]
Durrant *v.* **Branksome U. C.** "Public Health Act, 1875," §§ 15-17—A Local Authority may discharge its sewage into any stream, &c., within its district, subject to the restrictions in § 17 being observed—Surface water from roads may be so discharged though it carries down sand and silt—Such water is not "sewage or filthy water." (66 L. J., Ch., 653: L. R., 2 Ch., 291: 76 L. T., 739: 13 *Times* L. R., 482.)

1900, Feb. 18. [633]
Eastwood *v.* **Honley U. C.** "Public Health Act, 1875," § 21: "Rivers Pollution Act, 1876," § 7—Drain carrying off effluent water from a manufactory connected by the Local Authority with one of its sewers for 14 years—When the Local Authority desired to cut off the connection Injunction granted to restrain it from doing so—Statement of the serious circumstances which alone would justify such a severance under § 7 of the Act of 1876. (70 L. J., Ch., 313: L. R., 1 Ch., 645: 84 L. T., 169.)

1899, Dec. 15. [634]
Somerset Drainage Commissioners *v.* **Bridgewater Corporation.** Local Drainage Act forbidding discharge of filthy water into the watercourses of the Commissioners, with a saving in favour of persons having a legal right to discharge such water into the watercourses—Corporation held entitled to discharge sewage into the river P. even if the river was a "watercourse" under the Act—But such right would not justify the Corporation in opening new drains or sewers into any of the "drainage works" of the Commissioners. (18 L. T., 729.)

1901, Jan. 21. [635]
Southall & Norwood U. D. C. *v.* **Middlesex C. C.**—"Public Health Act, 1875:" "Rivers Pollution Act, 1876," § 7: Local Act—Sewage farm and works belonging to a Local Authority—Contract with owner of factory to receive effluent water after removal of fatty matters—Pollution of stream by water from the farm, the factory being the *causa causans*—Held that the Local Authority, by not having properly purified the waste water received under their contract, were responsible for the ultimate pollution, though they were not bound under their contract to receive water which was unclarified. (83 L. T., 742: 65 J. P., 215: 17 *Times* L. R., 208.)

1894, April 20. [636]
Yorkshire W. R. C. C. *v.* **Holmforth L. B.** "Rivers Pollution Act, 1877," §§ 3, 10—Sewage allowed by Local Authority to flow through sewers into a stream—Sewers constructed before the Act and before the constitution of the Authority, which had made certain alterations in the sewers but had done nothing to increase the pollution—Held that the Authority had "wilfully permitted" the sewage to flow into the stream, and that the mere fact that they had not materially altered the sewers and had done

nothing to increase the pollution was not a sufficient defence to proceedings under the Act. (63 L. J., Q. B., 485: L. R., 2 Q. B., 842: 71 L. T., 217.)

1901, June 20. [637]
Yorkshire W. R. Rivers Board *v.* **Scarr End Mill Co.** "Rivers Pollution Prevention Act, 1876"—It is not necessary that the consent of the Local Government Board to the taking of proceedings under § 4 should precede the giving of the 2 months' notice required by § 13—The notice and the consent are distinct requirements, and the notice may be given before the consent, notwithstanding that action cannot be taken until the consent has been obtained. (65 J. P., 776.)

(3.) VARIOUS.

1893, Dec. 12. [638]
Hole *v.* **Chard Union.** Pollution of stream—Action for Injunction—Injunction granted and damages to be assessed—Damages are to be assessed down to the date when the assessment takes place. (63 L. J., Ch. 469: L. R., [1894] 1 Ch., 293: 70 L. T., 52.)

1895, Nov. 25. [639]
Mersey and Irwell Joint Committee *v.* **Rochdale J. J.** Local Act—Pollution of stream by refuse from manufactory—Complaint by Local Authority—Inquiry by Local Government Board—Promise by defendants to abate nuisance if proceedings stayed—Lapse of 2 years and nothing done—Further proceedings. (*Loc. Gov. Chron.*, 1896, p. 29.)

1899, July 3. [640]
Ribble River Joint Committee *v.* **Halliwell.** "Rivers Pollution Act, 1876"—Refuse from paper-mill—Held that under the circumstances certain sediment in water was not solid matter, but matter in suspension in water, and that therefore the prohibition in § 20 of the Act did not apply, notwithstanding that the sediment was putrid—Also that the manufacturer was further protected by § 17. (68 L. J., Q. B., 984: L. R. 2 Q. B., 385: 81 L. T., 38.)

1894, April 23. [641]
United Alkali Co. *v.* **Simpson.** "Harbours Act, 1814" (54 Geo. III., c. 159), § 11—Company discharged water containing solid matter in suspension into a tidal brook which flowed into a navigable river—The solid matter was carried down and deposited in the river, but it was not alleged that it tended to obstruct navigation—Held that the Company were rightly convicted of casting, &c., rubbish, &c., where it was liable to be washed into the sea, and that the words relating to obstruction of navigation did not apply to this provision, but only to the earlier part of § 11. (63 L. J., M. C., 141: L. R., 2 Q. B., 116: 71 L. T., 259: 10 *Times* L. R., 438.)

81. Water, Rights as to.

1902, Aug. 12. [642]
Bradford Corporation *v.* **Ferrand.** If underground water flows in a defined channel into a well supplying a stream above ground, but the existence and course of that channel are not known, and cannot be ascertained except by excavation, the lower riparian proprietors on the banks of the stream have no right of action for the abstraction of the underground water. (L. R., 2 K. B., 655: 87 L. T., 388.)

1895, July 29. [643]
Bradford, Mayor, *v.* **Pickles.** The owner of land containing underground water, which percolates by undefined channels and flows to the land of a neighbour, has the right to divert or appropriate such water in his own land and to deprive his neighbour of it—And this, whatever his motive may be—*Per* Watson, Lord:—"The law of Scotland on this point is not accurately stated in *Chasemore* v. *Richards*." (64 L. J., Ch., 759: L. R. [1895] A. C., 587: 73 L. T., 353: 11 *Times* L. R., 555.)

1899, June 29. [644]
Mostyn *v.* **Atherton.** Action by riparian owner and his tenant, the occupier of a mill on the banks of a stream, against the licensee of an Urban Council in possession of the land on which the spring arose, to restrain defendant from taking water from the spring and interfering with its flow—Claimed by defendant that he was entitled to abstract the water before it had risen to the surface or flowed in a defined channel. Claim disallowed on the principles laid down in *Dudden* v. *Clutton Union* [1857]—A Local Authority has no power under the "Public Health Act, 1875," to license a stranger to take water from a public well for commercial purposes. (68 L. J., Ch., 629: L. R., 2 Ch., 360.)

82. Works.

1896, Jan. 22. [645]
Fulham Vestry *v.* **Solomon.** "Public Health (London) Act, 1891," §§ 39-41—By-Laws—Water-closet—Notice—At the hearing of a summons for non-execution of works ordered by Local Authority the Magistrate has jurisdiction to inquire into the validity of the directions given—Such directions, if relating to a closet in existence at the passing of the Act, cannot be justified under a By-Law which is only prospective—*Quære* whether the words "cleansing, alteration, or amendment" (§ 41) would in any case authorise

a requisition for structural improvements. (65 L. J., M. C., 33 L. R., [1896] 1 Q. B., 198: 12 *Times* L. R., 157.)

1896, Nov. 26. [646]
Lever, In re. "Public Health (London) Act, 1891," §§ 4, 121, 141—The cost of sanitary works in leasehold houses forming part of a residuary bequest to trustees upon trust for tenant for life and remaindermen, held payable out of the capital of the residuary state —Referred to in *Thomas, In re* [1900], 1 Ch., 319. (66 L. J., Ch., 66: L. R., 1897, 1 Ch., 32.)

1900, May 31. [647]
Reg. v. Horrocks. "Public Health Act, 1875," §§ 94, 96, 105—An Order under § 96 at whosesoever instance made, and whether for the abatement of a nuisance or for the prohibition of its recurrence, must specify the works necessary to abate or prevent recurrence, as may be, supposing any works are necessary—But where recurrence can be prevented by merely refraining from acts which caused it and works are unnecessary, an Order prohibiting the doing of acts which may lead to the recurrence of the nuisance is good. (69 L. J., Q. B., 688: 82 L. T., 767: 64 J. P., 661: 16 *Times* L. R., 435.)

1999, Feb. 9. [648]
Robinson v. Sunderland Corporation. "Public Health Act, 1875," §§ 36, 305—House reported to be without a sufficient water-closet, &c.—Notice to owner to provide such, disregarded—Application by Local Authority to Court of Summary Jurisdiction for Order to permit entry to execute the necessary works—Owner cannot resist such an Order on the ground that the existing arrangements are sufficient—It is not necessary before the Authority executes the works under § 36 that the owner should have an opportunity of being heard against the proposals—*Semble*, that the owner's remedy is by appeal to the Local Government Board under § 268 of the Act of 1875. (68 L. J., Q. B., 320: L. R., 1 Q. B., 751: 80 L. T., 262: 15 *Times* L. R., 195.)

1896, Nov. 3. [649]
St. John's Hackney, Vestry v. Hutton. "Public Health (London) Act, 1891," § 37—On the leaving of a summons against the owner of premises for failing to comply with a notice in respect of the water-closet accommodation on his premises, the Magistrate is bound by the decision of the Sanitary Authority that the accommodation is insufficient; and he has no jurisdiction to inquire as to its sufficiency or otherwise—But defendant might have appealed to the County Council. (66 L. J., Q. B., 74: L. R., [1897] 1 Q. B., 210: 75 L. T., 686: 13 *Times* L. R., 16.)

1894, Nov. 2. (650)
Sheffield Corporation v. Anderson. A Municipal Corporation putting in motion a Local Act, Sections of which are almost identical with the "Private Street Works Act, 1892" §§ 6-8, passed a resolution approving plans for new works—Held that a Court of Summary Jurisdiction, in determining objections to the proposed works, has jurisdiction to take into consideration the existing state of the drainage of the houses in the street, which drainage it is proposed to alter. (64 L. J., M. C., 44: 72 L. T., 242.)

1894, Jan. 29. [651]
Stroud v. Wandsworth B. W. "Metropolis Management Amendment Act, 1890," § 3—It is for the Local Authority which executes repairs to carriage roads to decide as to the necessity of the works, and not for the Magistrate before whom they seek to recover the expenses. (63 L. J., M. C., 88: L. R., 2 Q. B., 1: 70 L. T., 190: 10 *Times* L. R., 232.)

83. Miscellaneous.

(1.) OPEN SPACES.

1896, Jan. 29. [652]
Attorney-General v. London Parochial Charities Trustees. "Metropolitan Open Spaces Act, 1881," § 1: "Disused Burial Grounds Act, 1884," §§ 3, 5; "Open Spaces Act, 1887," § 4—In 1885 part of a disused burial ground acquired for street improvements—A portion of this land not required for that purpose was sold to Charity Trustees, and by them let for building purposes—Action for Injunction to restrain building operations—Held that the land had been sold under the authority of Parliament within § 5 of the Act of 1884, and was therefore excepted from the operation of that Act, and could be built upon—§ 5 applies to sales, &c., after the commencement of the Act. (65 L. J., Ch., 242: L. R., 1 Ch., 541: 74 L. T., 184: 12 *Times* L. R., 168.)

1893, Aug. 8. [653]
Attorney-General v. St. Pancras Vestry. Motion by the Attorney-General and the Vicar of Old St. Pancras for an interim Injunction to restrain the Vestry from erecting a band-stand on any part of certain disused Burial Grounds—Held that the Vestry were acting *ultra vires*—Injunction granted. (69 L. T., 627.)

1900, Nov. 20. [654]
Cook v. Mitcham Common Conservators. "Metropolitan Commons Act," 1866"—Scheme under the Act—Saving for vested interests—Held that the scheme had all the force of an Act of Parliament, and that a landowner who did not take advantage of

the opportunity of questioning the scheme before it came into operation could not afterwards obtain redress by seeking the intervention of the Court. (70 L. J., Ch., 223: L.R., [1901] 1 Ch., 387: 83 L. T., 519: 17 *Times* L. R., 63.)

1892, Jan. 11. [655]
Deane *v.* **Ramsgate Corporation.** Estate cut up and sold in lots—Large central plot reserved for, and for many years exclusively used by, adjoining lessees, and maintained at their expense as a private square or garden—This garden conveyed by trustees of original landowner, and in accordance with her will, to the Corporation for use as a public garden—Held that this was a breach of covenant which could be restrained at the suit of an adjacent owner or lessee. (8 *Times* L. R., 199.)

1895, March 14. [656]
Ecclesiastical Commissioners & New City of London Brewery Co., In re. "Union of Benefices Acts, 1860, 1871:" "Open Spaces Acts, 1881, 1887"—The site of a church where intramural burial has taken place has not been "set apart for the purposes of interment," and therefore when sold is not within the prohibition against building in the "Disused Burial Grounds Act, 1884," §§ 2, 3, 5, as affected by the "Open Spaces Act, 1887," and the "Metropolitan Open Spaces Act, 1881"—§ 5 of the Act of 1884 applies to dispositions made after the Act. (64 L. J., Ch., 646: L. R., 1 Ch., 702: 72 L. T., 481: 11 *Times* L. R., 296.)

1895, Nov. 12. [657]
Edwards *v.* **Jenkins.** A claim to a right of recreation by custom must be confined to the inhabitants of a particular district, that is, a particular division of the country defined by law in which the particular property over which the right is claimed is situate—A custom, therefore, alleged of all the inhabitants of three contiguous parishes to a right of recreation over certain land situate in one of the parishes is bad. (65 L. J., Ch., 222: L. R., [1896] 1 Ch., 308: 73 L. T., 574.)

1889. [658]
Ely & Canton Commons, In re. "Cardiff Improvement Act, 1875"—Commons and commonable rights sold—Application to the Court to authorise a scheme for expending the purchase-money for the benefit of the borough at large—Preliminary inquiry directed by Sterling, J., to ascertain the various facts. (*Times*, May 6, 1889.)

1898, Jan. 13. [659]
Farndale *v.* **Bainbridge.** "Public Health Amendment Act, 1890," § 51—Open ground let to strolling musicians during the summer—Ground enclosed *ad hoc* by ropes and rows of chains—Held, a "place" ordinarily used for public music, and therefore requiring a license under the Section. (*Loc. Gov. Chron.*, 1898, p. 120.)

1888, Jan. 17. [660]
Marcy *v.* **Morris.** "Commons Act, 1876"—Respondent occupied premises adjoining a common regulated by By-Laws, where she let ponies for hire—Hirers used the ponies on the common—Held that the offence of "letting for hire on the common a pony" had not been committed. (52 J. P., 168.)

1893, July. [661]
Peache *v.* **Wimbledon L. B.** Building land abutted on a high road, but a fine row of old trees stood on the edge of the land immediately adjacent to the road—When the land was put up for sale the Local Board bought a narrow strip all along the frontage, for the twofold purpose of widening the road and saving the trees—When the vendor of the land entered into the agreement with the Local Board for the sale of the land, it was mutually agreed that the Board should be bound to preserve the trees as far as the Board thought it was practicable and safe to do so—Action by purchaser of the building land to overrule this agreement, and compel the Board to cut down a sufficient number of trees to make several openings to give access at various points to the building land—*Per* Wright, J.:—"The effect of the change made by the alteration of the road on the frontage of the plaintiff's property was not fully realised when the agreement was signed: this was a case in which the parties themselves should come to terms"—No agreement having been come to, judgment was given for the defendants, coupled with a recommendation that they should consider some of the plaintiff's demands. (*Times*, July 19, 1893.)

1890, May 10. [662]
Phillips *v.* **Thomas.** Action by inhabitants adjacent to an open space in private ownership to restrain its use for public shows, sports, and exhibitions, calculated to be a nuisance—Action held maintainable and Injunction granted. (62 L. T., 793: 6 *Times* L. R., 327.)

1894, Jan. 20. [663]
Ponsford & Newport School Board, In re. The combined effect of the "Open Spaces Act, 1881," § 1, the "Disused Burial Grounds Act, 1884," § 2, and the "Open Spaces Act, 1887," §§ 2, 4, sched., is to make the term "disused burial ground" (on which building is prohibited by § 3 of the Act of 1884) include land, whether consecrated or not, set apart for, but never used for, interments. (63 L. J., Ch., 278: L. R., 1 Ch., 454: 70 L. T., 502: 10 *Times* L. R., 207.)

1890, March 28. [664]
Purves *v.* **Wimbledon & Putney Commons Conservators.** Local Act providing for election of conservators—Qualification by rating—Plaintiff being a ratepayer and paying Rates, held eligible to be a candidate as a joint tenant with his sister, though his name did not appear on the rate-book. (62 L. T., 529.)

1888. [665]
Reg. *v.* **Southport Railway Co.** Bill for extension of Railway passed on the condition that the company should lay out and maintain a piece of land of 35 acres as a public recreation ground—Held that the Company having regard to the terms of their Act, were bound, after laying out the land, to maintain the same for ever. (In Q. B. D. *Times*, Nov. 24, 1888.)

1892. [666]
St. Botolph Without, Aldgate, In re. Statement of the principles which guide the Consistory Court of London in dealing with proposals for improving churchyards where interference with graves and gravestones is involved—"The rule of the Court in these cases was, where a private vault was in good repair, not to interfere with it without the consent of the family, but where it was in a dilapidated condition, unless the family came forward to repair it, to order it to be levelled with the ground and filled up, taking care that all memorial slabs belonging to it on which the inscriptions were legible be carefully preserved in the churchyard, and placed as near the vault as convenience would permit. The reason of that rule was that it was the duty of the family, and not that of the vestry, to keep private vaults in repair, but it was the duty of the vestry to keep the churchyard in sanitary and decent order." (*Times*, Feb. 19, 1892.)

1895, Jan. 17. [667]
Scott *v.* **Baring.** Local Act—Appellant was summoned under the By-Laws made by the Conservators of Banstead Common for cutting turf and digging loam—It was proved that he acted under the authority of the bailiff of the owner of the soil—Special defence—Claim of right—Justices held that the claim of right was not reasonable, and convicted the appellant—Held that the Justices had no jurisdiction to go into complicated questions of right and title—Conviction quashed. (64 L. J., M. C., 200: 72 L. T., 495: 11 *Times* L. R., 175.)

1894, May 10. [668]
Sydney Municipal Council *v.* **Attorney-General of New South Wales.** The dedication of Crown lands under a Colonial Act as "permanent common" does not create a common of pasturage, but is a grant of the lands for ever for common or public enjoyment (63 L. J., P. C., 116: L. R., A. C., 444: 72 L. T., 605: 11 *Times* L. R., 403.)

(2.) "PUBLIC AUTHORITIES PROTECTION ACT, 1893."

1900, March 8. [669]
Attorney-General *v.* **Margate Pier Co.** "Public Authorities Protection Act, 1893," § 1—A company incorporated by Act of Parliament, not only for the performance of duties of public utility, but also for earning profits, is not entitled to the benefit of this Act. (69 L. J., Ch., 331: L. R., 1 Ch., 749: 82 L. T., 448.)

1900, July 20. [670]
Bostock *v.* **Ramsey U. C.** "Public Authorities Protection Act, 1893," § 1—Held that where a Judgment was obtained by the defendants with Costs they were entitled to Solicitor and Client Costs—The Act leaves untouched the discretion of the Court to deprive such defendants of their Costs—*Cree* v. *St. Pancras* [1899] not followed. (69 L. J., Q. B., 945: L. R., 2 Q. B., 616: 83 L. T., 358: 64 J. P., 660: 16 *Times* L. R., 96.)

1900, Nov. 20. [671]
Chamberlain *v.* **Bradford Corporation.** "Public Authorities Protection Act, 1893," § 1 (*b*)—Action against Corporation which under a Provisional Order had hired certain electricity meters alleged to involve an infringement of plaintiff's patent—Judgment being in favour of Corporation, held that Corporation was entitled to Solicitor and Client Costs. (83 L. T., 518: 64 J. P., 806: 17 *Times* L. R., 62.)

1899, March 6. [672]
Cree *v.* **St. Pancras Vestry.** "Public Health (London) Act, 1891," § 4: "Public Authorities Protection Act, 1893," § 1—Notice served on owner to execute works on what was supposed to be a drain, but which afterwards was found to be a sewer—Action by executors of owner against the Local Authority to recover back expenses as money paid to the use and at the request of the defendants—Held that the Action was brought for something done under the former Act within the meaning of the latter Act, and ought to have been brought within 6 months—*Waterhouse* v. *Keen* [1825] and *Midland Railway* v. *Withington* [1883] followed. (68 L. J., Q. B., 389: L. R., 1 Q. B., 693: 80 L. T., 388.) [Disapproved of in *Bostock* v. *Ramsay* [1900].]

1900, Feb. 19. [673]
Fielden *v.* **Morley Corporation.** "Public Authorities Protection Act, 1893," § 1—Judgment for defendant in an Action in respect of acts or alleged defaults in the execution of an

Act of Parliament, or of any public duty or authority, carries Costs as between solicitor and client, but this provision does not apply to appeals—The title of a Statute is to be read as part of its enactments. (69 L. J., Ch., 314: L. R., A. C., 133: 82 L. T., 29: 16 *Times* L. R., 219: [*Fielding* v. *M.*] 48 W. R., 545.)

1900, Feb. 27. [674]
Greenwell *v.* **Howell.** "Public Authorities Protection Act, 1893," § 1 (*b*): "Local Government Act, 1894," § 26—A landowner denying that a road over his land was a public highway and threatening proceedings against any person using it, 2 officials of a County Council were directed to use the road in order to test the right—Action of Trespass brought against them—Judgment in their favour at the trial, it being found that the road was a public highway—Held that their acts came within § 1 of the Act of 1893, and therefore that they were entitled to have their costs taxed as between solicitor and client under § 1. (69 L. J., Q. B., 461: L. R., 1 Q. B., 535: 82 L. T., 183.)

1898, March 22. [675]
Harrop *v.* **Ossett Corporation.** "Public Authorities Protection Act, 1893," § 1—*Quia Timet* Action to restrain Corporation from using a small-pox hospital on the ground of private nuisance, dismissed—Held that the Act of 1893 applies to any Action, and therefore to such Action, and that the Court has no discretion enabling it to deprive the Corporation of its costs. (67 L. J., Ch., 347: L. R., 1 Ch., 525: 78 L. T., 387: 14 *Times* L. R., 308.)

1894, Dec. 17. [676]
Humphriss *v.* **Worwood.** "Municipal Corporations Act, 1882," §§ 224, 226: "Public Authorities Protection Act, 1893"—An Action to recover a fine from any person for acting in a corporate office without being qualified, is not a proceeding to which the Act of 1893 applies, and therefore § 224 of the Act of 1882 is not repealed by the Act of 1893. (64 L. J., Q. B., 437.)

1900, May 25. [677]
Markey *v.* **Tolworth Joint Hospital Board.** "Public Authorities Protection Act, 1893," § 1: "Lord Campbell's Act" (9 and 10 Vict., c. 93), §§ 1, 3—Action by widow for compensation for death of husband, his death being caused by the negligence of hospital nurse administering an overdose of opium—Action brought more than 6 months, but less than 12 months' after the death—Held that the 6 months' limitation in the Act of 1893 superseded the 12 months of Lord Campbell's Act, and Action therefore not maintainable (69 L. J., Q. B., 738: L. R., 2 Q. B., 454: 83 L. T., 28: 16 *Times* L. R., 411.)

1901, April 29, [678]
Milford Docks Co. *v.* **Milford Haven U. D. C.** "Public Authorities Protection Act, 1893," § 1—An Action against a Local Authority upon the contract to pay money if legally liable to do a certain thing is not within the protection afforded by § 1, for the Act does not apply to Actions for the price of goods sold and delivered and for work and labour done. (65 J. P., 483.)

1898, May 14. [679]
North Metropolitan Tramways Co. *v.* **London C. C.** (2). "Public Authorities Protection Act, 1893," § 1 (*b*)—When in substance "judgment has been obtained" by a defendant Authority and costs given in its favour, such judgment carries the right to claim taxation as between solicitor and client though the judgment is silent as to the mode of taxation. (67 L. J., Ch., 449: L. R., 2 Ch., 145: 78 L. T., 711: 14 *Times* L. R., 414.)

1899, July 5. [680]
Shaw *v.* **Hertfordshire C. C.** "Public Authorities Protection Act, 1893," § 1 (*b*)—Action against County Council for acts done by them—Order in Chambers by consent that the Action be dismissed, plaintiff to pay taxed Costs of defendants—Held that the defendants had obtained Judgment within the meaning of the Act of 1893, and that the Costs must therefore be taxed as between solicitor and client—Referred to in *Bostock* v. *Ramsey* [1900]. (68 L. J., Q. B., 857: L. R., 2 Q. B., 282: 81 L. T., 208: 15 *Times* L. R., 462.)

1901, Nov. 8. [681]
Smith *v.* **Northleach R. C.** "Public Authorities Protection Act, 1893"—Action to restrain defendants from abstracting water from plaintiff's mill stream—Several issues raised—Defendants, while denying liability, paid £10 into Court which plaintiff accepted in full satisfaction—§ 1 (3) of this Act, dealing with Costs, does not apply to a case where an Action is discontinued. (71 L. J., Ch., 8: L. R., 1 Ch., 197: 85 L. T. 449: 66 J. P., 58: 18 *Times* L. R., 30.)

1898, June 17. [682]
Toms *v.* **Clacton U. D. C.** "Public Authorities Protection Act, 1893," § 1 (*b*)—Action for Injunction to restrain Council from using for cemetery purposes land within the prohibited limits of a dwelling-house—Action tried and dismissed—Whereupon Council asked for Costs as between solicitor and client—Held that the Action was brought for an "act done in pursuance of a public duty," and that the Act applied, and the Council were entitled to costs as specified. (W. N., 1898, p. 91: 78 L. T., 712: 13 *Times* L. R., 474.)

(3.) SHOP HOURS.

1896, Feb. 13. [683]
Collman *v.* **Roberts.** "Shop Hours Act, 1892," § 3—When a young person is employed at a shop, partly inside and partly elsewhere, his time away from the shop is to be counted in making up his time limit of 72 hours. (65 L. J., M. C., 63: L. R., 1 Q. B., 457: 74 L.T., 198: 12 *Times* L. P., 202.)

1894, Dec. 13. [684]
Hammond *v.* **Pulsford.** "Shop Hours Act, 1892," §§ 3—5—Offence created—Penalty omitted from Statute. (71 L. T., 767: 59 J. P., 533: 11 *Times* L. R., 117.)

1901, Nov. 7. [685]
Smith *v.* **Kyle.** "Shop Hours Act, 1892," § 4—A board laid on trestles whereat newspapers were sold held not to be a "shop" within this section of the Act, so as to require a notice to be exhibited: but *semble*, that it is a shop for the purposes of § 3, which regulates the hours of employment. (85 L. T. 428: 50 W. R., 319: 66 J. P., 101.)

(4.) WEIGHTS AND MEASURES.

1896, April 27. [686]
Alty *v.* **Farrell.** "Weights and Measures Act, 1889," §§ 27, 28—By-Law purporting to confer powers on a constable to demand re-weighing of coals, the Statute having only conferred the power on purchasers and Inspectors of Weights and Measures—By-Law held unreasonable—*Quære* whether a Local Authority has power to make a By-Law as to reweighing when that is specifically dealt with by § 27. (65 L. J., M. C., 115: L. R., 1 Q. B., 636: 74 L. T., 492: 12 *Times* L. R., 346.)

1894, Dec. 10. [687]
Harris *v.* **London C. C.** "Weights and Measures Act, 1878," § 25—Farmer's milk churn, provided with an inside gauge to indicate gallons, held a measure used for trade in respect of which there might be a conviction if measuring erroneously—Conviction affirmed. (64 L. J., M. C., 81: L. R., [1895] 1 Q. B., 240: 71 L. T. 844: 11 *Times* L. R., 113.)

1895, May 2. [688]
Kent C. C. *v.* **Humphrey.** "Weights and Measures Act, 1889," § 28—A By-Law requiring a weighing-machine to be carried with a vehicle when coal is sold out of it is valid. (64 L. J., M. C., 190: L. R. 1 Q. B., 903: 72 L. T., 563: 11 *Times* L. R., 386.) [Discussed in *Alty* v. *Farrell* [1896].]

1897, Dec. 9. [689]
Knowles *v.* **Sinclair.** "Weights and Measures Act, 1889," §§ 21, 22—Coal to be sent out for delivery in bulk, must be weighed at the premises of the seller before being sent out, and not on arrival at the buyer's premises. (67 L. J., Q. B., 67: L. R., [1898] 1 Q. B., 170: 77 L. T., 624.)

1893. Aug. 11. [690]
Martin *v.* **Clarke.** "Weights and Measures Act, 1889," § 28—County Council By-Law requiring person carrying coal for sale or delivery to carry with him a weighing-machine of "a form approved"—Held that the By-Law was neither vague, nor invalid for uncertainty because it did not specify the identical form of weighing-machine to be carried—Justices, who had refused on this ground to convict a coal-dealer of an offence against the Act, held to have gone beyond their jurisdiction in entertaining the question of vagueness or uncertainty of language. (62 L. J., M. C., 178; 9 *Times* L. R., 656).

1901, April 17. [691]
Rex *v.* **Roberts.** "Weights and Measures Act, 1878:" "Weights and Measures Act, 1889"—The Local Authority has no power to resolve that the fees directed by the Act of 1889 to be taken, in respect of the verification and stamping of weights, measures, &c., be not taken—An Inspector ceasing, in pursuance of a resolution of the Local Authority, to take such fees is liable to be surcharged the amount which he has not collected. (70 L. J., K. B., 590: L. R., 2 K. B., 117: 84 L. T., 530: 65 J. P., 359: 17 *Times* L. R., 426.)

PART II.—HIGHWAYS.

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1. Authorities Managing Highways.

1894, Aug. 7. [692]
Frodingham Iron Co. *v.* **Bowser.** "Highway Act, 1835," § 6—An Action does not lie against a Surveyor of Highways for materials supplied to his predecessor where such predecessor died insolvent after having received sufficient money to pay for the materials. (64 L. J., Q. B., 12: L. R., 2 Q. B., 791: 71 L. T., 433.)

1893, Aug. 3. [693]
Pictou Municipality *v.* **Geldert.** Canadian law —A Public Corporation, to which an obligation to maintain roads and bridges has been transferred, is not liable to an Action for mere non-feasance unless the Legislature has shown an intention to impose such liability. (63 L. J., P. C., 37: L. R., A. C., 524: 69 L. T., 510: 9 *Times* L. R., 638.)

1898. [694]
Postmaster-General *v.* **London Corporation.** "Telegraph Act, 1863," § 5 (3)—Held that the Highway Authority, in giving consent to the opening up of streets by the Postmaster-General for making changes in the working of the system, cannot attach a condition that the pipes to be laid should be used only for public purposes, and should not be let or handed over to a private Company — The objections which the Road Authority are entitled to raise are objections to matters only which concern them as a Road Authority: they are not entitled to interfere in questions of policy as to the use of the wires, &c. (78 L. T., 120: 14 *Times* L. R., 174.)

2. Legal Proceedings by and against Authorities Managing Highways.

1901, March 18. [695]
Belmore (Countess of) *v.* **Kent C. C.** Action by landowner to restrain trespass by Highway Authority on uninclosed strip of land alongside highway—No sufficient proof of dedication — Judgment for plaintiff. (70 L. J., Ch., 501: L. R., 1 Ch., 873: 84 L. T., 523: 65 J. P., 456: 17 *Times* L. R., 360.)

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1901, April 23. [696]
Rex *v.* **Norfolk C. C.** "Local Government Act, 1894," § 26—A District Council may, for the purpose of protecting a public right of way, contribute to the costs of a private person against whom an Action is brought in respect of acts done by him in asserting the existence of the public right of way—The powers of a County Council who have taken over the powers of a District Council under § 26 (4) are as extensive in this respect as those of the District Council. (70 L. J., K. B., 575: L. R., 2 K. B., 268: 84 L. T., 719: 65 J. P., 454: 17 *Times* L. R., 437.)

3. Highway Accounts.

1901, Aug. 9. [697]
Attorney-General *v.* **Simpson.** Public navigable river—Liability to maintain locks—Right to take tolls. (85 L. T., 325; 17 *Times* L. R., 768.)

4. Creation of Highways.

1901, July 26. [698]
Attorney-General *v.* **Esher Linoleum Co.** Where a public right of footway exists across land, and a certain amount of the surface of land lying along the course of the public footway is used by traffic, even though it be private traffic, the presumption is that the owner of the soil must be taken to have dedicated to the public so much of the surface as he has in fact devoted to traffic, even though it be private traffic to his own premises. (70 L. J., Ch., 808: L. R., 2 Ch., 647: 66 J. P., 71.)

1900, Dec. 13. [699]
Evelyn *v.* **Mirrielees.** If a highway is bounded on either side by a hedge or fence there is a presumption of law that all land between hedges or fences was dedicated—There is a like presumption where a highway has a hedge on one side only that that hedge marks the boundary, and that the boundary on the other side has been left undefined. (17 *Times* L. R., 152.)

1902, July 1. [700]
Great Western Railway Co. *v.* **Solihull R. D. C.** A Canal Company has no power to dedicate to the public a right of way over its land acquired for limited statutory purposes, if such user by the public will put a burden on the Company's funds in the maintenance and repair of such right of way—Company held entitled to erect fences and notice-boards warning the public against trespassing on its embankments. (86 L. T., 852: 66 J. P., 772: 18 *Times* L. R., 707.)

1893, April 26. [701]
Haigh *v.* **West.** Highway made under an Inclosure Award—Grazing let ever since, namely for 115 years—Held (1) that a lawful origin must be presumed; (2) that the soil of the highway had been granted to the churchwardens, &c., as trustees under the "Charitable Uses Act, 1735" (9 Geo. II., c. 36) of lands belonging to the parish; (3) in the absence of proof of non-enrolment enrolment might be presumed, or else that enrolment was unnecessary; (4) that the parish had gained a title under 3 & 4 Will. IV., c. 27, to the soil of the highway, subject to the public right of way. (62 L. J., Q. B., 532: L. R., 2 Q. B., 19: 69 L. T., 165: 57 J. P., 358.)

1892, Dec. 3. [702]
Harrison *v.* **Rutland (Duke of.)** Use of highway otherwise than as such—The plaintiff lingered on a highway running over defendant's grouse moor for the sole purpose of interfering with the defendant's right of shooting—Held that the plaintiff, being on the highway for purposes other than its use as such, was a trespasser, and that the Court should make a declaration to that effect. (62 L. J., Q. B., 117: L. R., [1893] 1 Q. B., 142: 68 L. J., 35: 57 J. P., 278: 9 *Times* L. R., 115.)

1900, March 13. [703]
Hickman *v.* **Maisey.** A highway is for passing and repassing—Using it for carrying on a business such as by touts watching the trial of racehorses on an adjoining land, is a misuse, and entitles the owner of the soil of the highway to maintain an Action for Trespass—*Harrison v. Rutland* [1892] followed. (69 L. J., Q. B., 511: L. R., 1 Q. B., 752: 82 L. T., 321: 16 *Times* L. R., 274.)

1902, Feb. 26. [704]
Neaverson *v.* **Peterborough R. C.** Prescription—Herbage—Private road—The Court will not presume from long user a lost grant of a right which is contrary to the provisions of an award under an Inclosure Act, where such Act has been passed not merely for regulating the rights of persons having an interest in common lands, but in the public interest, *e.g.* in providing a permanent fen drainage scheme. (71 L. J., Ch., 378: L. R., 1 Ch., 557: 86 L. T., 738: 66 J. P., 404: 18 *Times* L. R., 360.)

1901, Jan. 21. [705]
Piggott *v.* **Goldstraw.** Evidence of dedication—Building erected on leasehold land belonging to a Municipal Corporation at the side of the highway—Recesses on the ground floor on which a doorway and shop window abutted—Recesses paved as part of the public footway—Area of recesses built over by new windows brought forwards—Held under the circumstances that there was no sufficient evidence that the recesses had been dedicated, and therefore no sufficient evidence of a legal encroachment on the highway. (84 L. T., 94: 65 J. P., 259.)

1891, Feb. 19. [706]
Pullen *v.* **Reffel.** "Highway Act, 1835," § 109—Inclosure Award allotted a road 15 ft. wide as a footway and bridle-path—Held that the public were entitled to use the whole width of the road, and not merely a part sufficient (*i.e.* 3½ ft.) for the purpose of a footway and bridle-path; and that the Surveyors of Highways were justified in breaking down barriers—Held also that the case did not fall within § 109 so as to entitle defendant to Costs as between solicitor and client. (W. N. 1891, p. 39: [*Pullen* v. *Deffel*] 64 L. T., 134.)

1898, Nov. 14. [707]
Robinson *v.* **Cowpen L. B.** Open space—Public user—The mere fact that the public have for more than 30 years used an open space in a town, surrounded on all sides by highways, by passing over it in all directions, is not conclusive evidence of an intention on the part of the owner of the soil to dedicate such space as a highway—*Per* Lopes, L.J.:—"I cannot help thinking that the term 'right of way,' presupposes some such thing as a defined way." (63 L.J., Q. B., 235.)

5. Stoppage, Diversion, and Widening of Highways.

1894, May 31. [708]
Gwynne *v.* **Drewitt.** A Turnpike Act for a term of 21 years stopped up certain roads, and vested them in A.—Eventually the Act was repealed—Held that the repeal did not revive the old roads, but that they were abolished for ever as highways, and remained vested in A. (L. R., 2 Ch., 616: 71 L. T., 190.)

1902, Feb. 21. [709]
Melksham U. D. C. *v.* **Gay.** "Railways Clauses Act, 1845," §§ 16, 46, 56, 57—Road diverted and old road stopped up—Surface of the old road taken possession of and used by the adjacent landowner—Claim to it by

the District Council—Held that the Railway Company had lawfully exercised their powers under the above Act, and that the land in question, though originally a highway, was now freed from that attribute, and that the landowner was within his rights in what he had done. (At Assizes.) (18 *Times* L. R., 358.)

6. Obstruction of, and Nuisances on Highways.

1900, July 11. [710]
Attorney-General *v.* **Barker.** Colliery Tramway crossing a highway—A Highway Authority has no power to sanction the laying down of a tramway so as to cause a nuisance—Injunction granted—The soil of a road is vested in a Highway Authority only to the extent necessary for maintaining the road as a highway—The principles upon which the Court proceeds to discover whether or not a nuisance has been committed on a highway, explained. (83 L. T., 245: 16 *Times* L. R., 502.)

1900, Jan. 22. [711]
Attorney-General *v.* **Brighton & Hove C.-O. Supply Association.** Obstruction of highway by vans loading and unloading—Whether the user of the highway is under the circumstances reasonable or unreasonable, is a question of degree dependent upon the circumstances of each case—Traders carrying on a large business in a populous town at premises in a street, the roadway of which was less than 20 ft. wide, kept as many as 6 vans at once during every alternate hour in the daytime loading and unloading, thus occupying half the street and seriously obstructing traffic—Held an unreasonable user of the highway which amounted to a nuisance—Injunction granted. (69 L. J., Ch., 204: L. R., 1 Ch., 276: 81 L. T., 762: 16 *Times* L. R., 144.)

1894, Nov. 19. [712]
Attorney-General *v.* **Conduit Colliery Co.** "Highways Act, 1878," § 27—Subsidence of highway caused by mining—Highway crossed on the level by a railway—Subsidence of highway and railway together, caused by the operations of a Colliery Company—Whereupon the Railway Company to preserve their line on its old level, formed an embankment which obstructed the highway—Held that the colliery was not liable in damages for the obstruction—Held also that, assuming the highway was vested in a Sanitary Authority, the subsidence having been substantial, the Authority, notwithstanding that they had suffered no appreciable damage, were entitled to Judgment with nominal damages for the injury to their proprietary right. (64 L. J., Q. B., 207: L. R., [1895] 1 Q. B., 301: 71 L. T., 771: 11 *Times* L. R., 57.)

1902, March 5. [713]
Attorney-General & Bromley R. C. *v.* **Copeland.** "Highway Act, 1835," § 67—A Highway Authority had for many years discharged surface water by means of an iron pipe on to defendant's land, where it flowed away by no defined channel—Held that the pipe was a drain within § 67, and that, owing to the long period during which it had been in use, the Court ought to presume a legal origin to the claim of right on the part of the Highway Authority so to dispose of its waste water on to defendant's land. (71 L. J., K. B., 472: L. R., 1 K. B., 690: 86 L. T., 486: 66 J. P., 420: 18 *Times* L. R., 394.)

1893, March 17. [714]
Barber *v.* **Penley.** Motion for Injunction—The performance every night at a theatre of a particular piece may be such a nuisance as a Court of Equity will restrain by Injunction, if by reason of the attraction of the piece it draws together such a crowd of people for an unreasonable time before the doors are opened as to obstruct access to adjoining premises—But Injunction refused because the Police Authorities had afforded a remedy to plaintiff, who was however awarded Costs. (62 L. J., Ch., 623: L. R., 2 Ch. D., 447: 68 L. T., 662: 9 *Times* L. R., 359.) [Many street obstruction cases cited and commented on.]

1896, Jan. 20. [715]
Brotherton *v.* **Tittensor.** "Highway Act, 1835," § 72—Cyclist riding on foot pavement arrested by constable—Action for assault on ground of arrest being illegal held maintainable—*Stinson* v. *Browning* [1866] commented on and explained. (60 J. P., 72.)

1898, Jan. 18. [716]
Bullen *v.* **Wakeley.** "Highway Act, 1835," §§ 65, 66—Where any growing tree, whether a timber tree or not, causes an obstruction to a highway (being a carriage-way or cart-way), Justices may, unless the owner shows sufficient cause for the contrary, order its removal under § 65; and at any time of the year, notwithstanding the proviso in § 66, and although it may be a timber tree. (77 L. T., 689: 62 J. P., 166.)

1898, Jan. 21. [717]
Dawson *v.* **Cocker.** "Highway Act, 1835," § 72—Alleged obstruction of highway by char-a-bancs standing on a pavement or causeway divided from the roadway proper by paved channel—Causeway and channel had always been repaired by the owner of the Inn to which they were opposite—Conviction quashed, there being no proof that the causeway had been dedicated—*Illingworth* v. *Montgomery* [1859] commented on. (*Loc. Gov. Chron.*, 1898, p. 143.)

1892, Nov. 2. [718]
Drapers Co. *v.* Hadder. "Metropolitan Streets Act, 1867," § 6—A tenant of D. left a package in a court, on the pavement, and was charged and convicted of obstructing the pavement by leaving the package longer than was necessary—Allegation by D. that the court was private property for the sole use of his tenants—Held that D. was not "a person aggrieved," and was not entitled to have a special case stated under the "Summary Jurisdiction Act, 1879," § 33. (57 J. P., 200: [*D.* v. *Haddon*] 9 *Times* L. R., 36.)

1894, Dec. 12. [719]
Fenna *v.* Clare. In front of defendant's shop window, and immediately abutting on a public highway, was a low wall 18 inches high with a row of sharp spikes on the top—Plaintiff aged 5 found standing by the wall bleeding from a wound such as might have been caused by falling on the spikes—Held that there was evidence that the injury was caused by the wrongful act of the defendant in maintaining a nuisance whilst the plaintiff was using the highway in a proper manner. (64 L. J., Q. B., 238: L. R., [1895] 1 Q. B., 199: 11 *Times* L. R., 115.)

1897, July 29. [720]
Hatton *v.* Treeby. "Highway Act, 1835," § 78: "Local Government Act, 1888," § 85—The powers given by the former Act to apprehend without warrant offending drivers are not incorporated by the latter Act, though bicycles are declared to be carriages within the "Highway Acts"—A constable cannot therefore arrest a cyclist riding without a lighted lamp who refuses to stop when called upon. (66 L. J., Q., 729: L. R., 2 Q. B., 452: 77 L. T., 309: 13 *Times* L. R., 556.)

1994, March 2. [721]
Keep *v.* St. Mary, Newington, Vestry. "Michael Angelo Taylor's Act, 1817," § 65—This Section is not repealed as to costermongers by the "Metropolitan Streets Act, 1867"—So long as costermongers conform to Police regulations, they cannot be interfered with under the Act of 1817, but if they do violate the regulations, they can be proceeded against either under that Act or under the Acts of 1867. (63 L. J., Q. B., 369: L. R., 2 Q. B., 524: 70 L. T., 509: 10 *Times* L. R., 330.) [But see *Summers* v. *Holborn* [1893].]

1896, June 17. [722]
Louth D. C. *v.* West. "Local Government Act, 1894," § 26 (1)—A District Council exercising the duties imposed by this Section is entitled to remove an obstruction which has been placed upon a roadside waste, and may recover the expenses of so doing in an Action against the obstructor. (65 L. J., Q. B., 535: 12 *Times* L. R., 477.)

1899, May 16. [723]
Luscombe *v.* Great Western Railway. "Railways Clauses Act, 1845," § 68—A Railway Company whose premises adjoin a public highway is not bound to fence against cattle which stray upon the highway and are not merely passing along it, although they are upon the highway by permission of the owner of the soil. (68 L. J., Q. B., 711: L. R., 2 Q. B., 313: 81 L. T. 183.)

1899, June 21. [724]
Martin *v.* London C. C. Highway obstructed by Local Authority under Parliamentary powers during the construction of a new street—Action by tradesman for damage through loss of business—Allegation that the highway had been unnecessarily and negligently obstructed—Held, that there was no evidence of damage caused by the Council having exceeded its powers, and that the Council was entitled to Judgment—*Quære* whether, had there been an excess in the use of the statutory powers, a loss of business would have entitled plaintiff to maintain an Action? (80 L. T., 866: 15 *Times* L. R., 431.)

1901. Nov. 9. [725]
Mayhew *v.* Sutton. "Locomotives and Highways Act, 1896:" Order thereunder—To convict the driver of a motor-car of driving at excessive speed to the "common danger of passengers," it is not necessary to prove as a matter of fact that there were any passengers on the highway within reach. (71 L. J., K. B., 46: 86 L. T., 18: 18 *Times* L. R., 52.)

1896, Dec. 10. [726]
Murray *v.* Epsom L. B. "Local Government Act, 1894," §§ 26, 46—Action to restrain Local Authority from removing posts erected on public footpath by adjacent owners, in order to prevent footpath from being used by vehicles—Statement of claim alleged that a member using his influence with his colleagues for his own private interest was the reason why the Board had not taken steps to protect the footpath against vehicular traffic—Held that the real issue was whether the posts constituted an obstruction, and that the matter just named was irrelevant, and ought to be struck out of the statement of claim. (66 L. J., Ch., 107: L. R., [1897] 1 Ch., 35: 75 L. T., 579: 13 *Times* L. R., 113.)

1899, Oct. 31. [727]
Neeld *v.* Hendon U. D. C. Highway—Roadside strip—Waste of manor—Land between fences—Presumption that highways extended from hedge to hedge—In 1864 cartloads of soil carried away from strip by license from Lord of Manor—In 1872 license to inclose granted, and licensee admitted as copyhold thereof—In 1874 fence erected by him to inclose, Surveyor of Highways assisting

to set out line—In 1884, fence being decayed, restored—In 1886 land enfranchised—In 1899 fence destroyed by defendants alleging that it was an encroachment—Held that the presumption that the whole width between the ancient fences had been highway was rebutted by the evidence of acts acquiesced in for so many years, and that therefore the land inclosed in 1874 was not part of the highway—Action for damages and Injunction upheld. (81 L. T., 405: 16 *Times* L. R., 50.)

1895, March 27. [728]
Phythian *v.* **Baxendale.** "Highway Act, 1835," § 78—This Section, making it an offence for a driver to be so far off his carriage that he cannot direct the cattle drawing the same, applies where a driver leaves his carriage standing by the roadside. (64 L. J., M. C., 174: L. R., 1 Q. B., 768: 72 L. J., 465.)

1894, March 20. [729]
Reg. *v.* **Berger.** Where a defendant is found guilty on an indictment in the Q. B. D. of obstructing a highway, a new trial may be granted for misdirection, mis-reception of evidence, and verdict against the evidence—A map of an Inclosure Award is not admissible to prove the boundaries of a highway against a defendant on an Indictment for obstruction whose property adjoins the highway, and who was not subject to the jurisdiction of the Inclosure Commissioners in making their award. (63 L. J., Q. B., 529: L. R., 1 Q. B., 823: 70 L. T., 807: 10 *Times* L. R., 380.)

1894, March 7. [730]
Reg. *v.* **Bradley.** "Highway Act, 1864," § 51—An information charged defendant with erecting a fence within 15 ft. of the centre of a highway—The Justices, without any objection being taken by defendant, heard evidence as to the fact of the encroachment, and convicted him—Neither the Information nor the Conviction specifically mentioned "encroachment" as the subject of the charge—Held that, as the Justices had jurisdiction to hear the Information and no objection on the ground of informality was taken at the time, the conviction must stand. (63 L. J., M. C., 183: 70 L. T., 379: 10 *Times* L. Q., 346.)

1899, April 19. [731]
Reg. *v.* **Francis.** "Metropolitan Police Act, 1839," § 60 (7)—Where a costermonger causes an annoyance or obstruction within this enactment, a private person aggrieved may take out a Summons to recover the penalty. (68 L. J., Q. B., 609: 15 *Times* L. R., 323.)

1893, Feb. 17. [732]
Reg. *v.* **Hopkins.** "Metropolitan Police Act, 1839," § 76: "Metropolitan Police Act, 1864," § 1—A street musician was convicted and fined under the latter Act for playing in a public thoroughfare after being duly requested to depart, and, in default of payment of the fine, was committed for one month—Conviction and sentence held good—Under the former Act an offender may be imprisoned for one month for non-payment of a fine, though the imprisonment fixed for the original offence be only 3 days. (L. R., 1 Q. B., 621: 68 L. T., 292: 57 J. P., 152: 9 *Times* L. R., 294.)

1890, May 10. [733]
Reg. *v.* **London C. C.** "London Building Act, 1894," § 13 (4)—The Council cannot entertain an application for their consent to the erection, &c., of a new building within 20 ft. of the centre of a carriage highway when such new building has already been unlawfully erected within that distance without their consent. (66 L. J., Q. B., 516: 76 L. T., 472: 13 *Times* L. R., 391.)

1896, April 17. [734]
Reynolds *v.* **Presteign U. D. C.** "Public Health Act, 1875," § 149: "Local Government Act, 1894," § 26—An Urban Council may remove an encroachment on a highway without a preliminary conviction, for the highways are vested in the Council, and the alternative procedure given by § 149 or under the "Highway Acts" does not deprive the Council of its right to remove an encroachment summarily. (65 L. J., Q. B., 400: L. R., 1 Q. B., 604: 74 L. T., 422: 12 *Times* L. R., 327.)

1896, May 11. [735]
Sadler *v.* **Great Western Railway Co.** Obstruction of street by vans of the Railway Companies — Practice — Held that the 2 defendants ought not to be joined in one Action — *Thorpe* v. *Brumfitt* [1873] distinguished. (65 L. J., Q. B., 462: L. R., A. C., 450: 74 L. T., 561: 12 *Times* L. R., 394.)

1896, Oct. 29. [736]
Shields *v.* **Howard.** "Metropolitan Police Act, 1864," § 1—A householder who calls upon a street musician to depart from the neighbourhood of his house must give the musician a reason for the request—*Semble* that it makes no difference that in fact the householder had a reasonable and sufficient cause of complaint. (66 L. J., Q. B., 105: L. R., [1897] 1 Q. B., 84: 45 W. R., 138: 13 *Times* L. R. 8.)

1901, May 1. [737]
Smith *v.* **Boon.** "Light Locomotives on Highways Order, 1896," Art. IV. (1)—It is not necessary for supporting a conviction for driving at excessive speed that there should be evidence of any vehicle or person using the highway being interrupted, interfered with, incommoded or affected by the speed at which the locomotive was driven —

Justices were entitled to find that 18 or 20 miles an hour was an excessive speed having regard to the traffic on the road. (84 L. T., 593: 65 J. P., 486: 17 *Times* L. R., 472.)

1893, Feb. 9. [738]
Summers *v.* **Holborn B. W.** "Michael Angelo Taylor's Act, 1817," § 65—This section, which empowers vestries to proceed summarily against street obstructions by costermongers, is impliedly repealed by the "Metropolitan Streets Act, 1867," § 6. (62 L. J., M. C., 81: L. R., 1 Q. B., 612: 68 L. T., 226: 57 J. P., 326: 9 *Times* L. R., 274.) [Not followed in *Keep* v. *St. Mary's, Newington* [1894].]

1899, April 28. [739]
Tyne Improvement Commissioners *v.* **Imrie.** Pier constructed under statutory powers—Right of way—Other rights—Dedication—Evidence of user—Intention. (81 L. T., 174.)

1898, Oct. 27. [740]
Wandsworth B. W. *v.* **Pretty.** "Metropolitan Police Act, 1839," § 60: "Metropolitan Streets Act, 1867," § 1—By Police Regulations under the Act of 1867 costermongers' barrows, &c., are liable to be removed from any street where they cause obstruction, or are an annoyance to the inhabitants—Held that such Regulations did not impliedly repeal § 60 (7) of the Act of 1839, nor supersede the penalty imposed thereby. (68 L. J., Q. B., 193: L. R., [1899] 1 Q. B., 1: 47 W. R., 256.)

1893, June 26. [741]
Wyatt *v.* **Gems.**—"Michael Angelo Taylor's Act, 1817," § 65: "Metropolis Management Act, 1855," § 119—The former section is not impliedly repealed by the latter as regards the hanging out of articles in front of houses. (62 L. J., M. C., 158: L. R., 2 Q. B., 225: 69 L. T., 456: 9 *Times* L. R., 546.)

7. Repair of Highways.

1899, Oct. 30. [742]
Attorney-General *v.* **Day.** A Charitable Trust for the repair of a highway is not put an end to by the highway becoming a main road and passing under the control of a County and a District Council—Such Councils are entitled to receive the income arising from the Trust funds. (69 L. J., Ch., 8: L. R., [1900] 1 Ch., 31: 81 L. T., 806.)

1902, June 5. [743]
Attorney-General *v.* **Lunesdale R. D. C.** Roads repairable under an Inclosure Act—Roads outside the district of the Authority proceeded against—Canon of construction to be applied in construing such an Inclosure Act—Judgment for defendants — *Rex* v. *Cottringham* [1794; 6 T. R., 20] followed. (86 L. T., 822.)

1899, Oct. 31. [744]
Daventry D. C. *v.* **Parker.** "Local Government Act, 1894," § 25 (2)—Proceedings in respect of a highway repairable *ratione tenuræ*, must be taken against the occupier of the land subject to the obligation, and cannot be taken against the owner where he is not in occupation. (69 L. J., Q. B., 105: 81 L. T., 403: L. R., [1900] 1 Q. B., 1: 16 *Times* L. R., 5.)

1902, Jan. 11. [745]
Esher & Dittons U. C. *v.* **Marks.** "Local Government Act, 1894," § 25 (2)—License from the Crown in 1773 to stop up a highway replacing it by another—Held that the Local Authority might take proceedings to enforce the repair of such a road as one repairable *ratione tenuræ*. (8 L. J., K. B., 309: 86 L. T., 222: 66 J. P., 243: 18 *Times* L. R., 332.)

1896, Dec. 17. [746]
Hayes Common Conservators *v.* **Bromley D. C.** "Commons Act, 1876," § 20—On the application of a Highway Authority for leave to dig gravel, there is nothing in this Section to compel Justices to make an Order to restrict them in the exercise of their discretion as to making or refusing an Order. (66 L. J., Q. B., 155: L. R., [1897] 1 Q. B., 321: 76 L. T., 51: 13 *Times* L. R., 136.)

1894, April 13. [747]
Heath *v.* **Weaverham Overseers.** "Highways Act, 1835," § 33—Appellants had from time immemorial repaired *ratione tenuræ* a certain highway, and were therefore exempt from contributing to the repair of other highways—Highway placed in 1782 under Trustees, who materially altered it—Trust expired in 1862, but appellants, believing their liability still existed, continued to repair—In 1866 decision by Q. B. that they were not liable for general repairs in the District, but the fact that the highway had been altered by the Trustees was not before the Court—Highway declared in 1892 a main road, and appellants ceased to repair it—Held that the duty to repair *ratione tenuræ*, and with it the exemption from being rated, had ceased by the alteration of the highway by the Trustees, and that the previous decision did not make the case *res judicata*, as the alteration had not been brought to the notice of the Court. (63 L. J., M. C., 187: L. R., 2 Q. B., 108: 70 L. T., 720: 10 *Times* L. R., 414.)

1901, Jan. 19. [748]
Leigh-on-Sea U. D. C. *v.* **King.** The presumption that a highway is repairable by the public is not necessarily negatived by

showing that the road had come into existence since 1837—On proof of long and continuous user, it may be presumed that at the time of dedication all proper formalities required to make the road a highway repairable by the inhabitants at large had been observed. (70 L. J., Q. B., 313: L. R., 1 Q. B., 747: 83 L. T., 777: 65 J. P., 243: 17 *Times* L. R., 205.)

1896, Dec. 8. [749]

London & North Western Railway *v.* **Fobbing Levels Commissioners.** Sea-wall—Liability to repair—Where an onerous liability has been asserted, and submitted to for a long term of years (*e.g.* 78 years), a legal obligation will be presumed—Where a farm has been subject, *ratione tenuræ*, to the repair of a sea-wall, such liability attaches to every part of the farm, and if it has been divided and vested in several purchasers, each must contribute. (66 L. J., Q. B., 127: 75 L. T., 629.)

1900, May 28. [750]

North Eastern Railway *v.* **Dalton Overseers**—Where lands enjoy an exemption from highway Rates because liable *ratione tenuræ*, such exemption continues after the highway has been made repairable by the inhabitants by an Order of Justices under the "Highway Act, 1862," § 35—Exemption continues in the shape of an exemption from so much of the Poor Rate as is levied to meet highway expenses after the transfer of the functions of the Highway Authority to the Rural District Council by the "Local Government Act, 1894," § 26. (69 L. J., Q. B., 650: L. R., A. C., 345: 16 *Times* L. R., 419: [D. *v.* N. E. R.] 82 L. T., 693: 64 J. P., 612.)

1900, June 20. [751]

Reg. *v.* **Biggleswade R. D. C.** "Highway Act, 1835," § 95: "Highway Act, 1862," § 19—Justices have no power to order an Indictment against a Rural Council for non-repair—The Order should be made by the County Council, and under the "Highway Act, 1878," § 10—Indictment held bad, that it did not show a statutory liability on the Council to repair, and that there was no Common Law liability. (At Assizes.) (64 J. P., 442.)

1900, Nov. 30. [752]

Reg. *v.* **Southport Corporation.** "Highways Act, 1878," § 10—Order by County Council that defendants should repair a highway to the satisfaction of the County Surveyor—Defendants denying liability, County Council preferred an Indictment—Order objected to at the trial on the ground that the Section did not warrant the demand that the repairs should be done to the satisfaction of the surveyor, but only that the road should be made fit for ordinary traffic—Held that anything in the Order which was inconsistent with § 10 might be ignored, and that the Order was good with the words objected to deemed left out. (65 J. P., 184.)

1902, March 26. [753]

Rex *v.* **Crompton U. D. C.** "Highways Act, 1878," § 10—Highway stopped up in 1891, and new road substituted at charge of landowner—Certificate stated new road to be 12 yards wide, whereas it really was 14 or 15 yards—Road getting out of repair, an Order under § 10 was made on defendants, and an Indictment preferred—After the Order defendants served notices on the frontagers under the "Public Health Act, 1875," § 150—The width of the road was not specified in the Indictment, and the Jury found that the old road was a highway repairable by the inhabitants before 1835—Held that judgment was rightly entered for the Crown. (86 L. T., 762: 66 J. P., 566.)

1898, May 23. [754]

Rundle *v.* **Hearle.** The fact that slight repairs have been done to a public footpath by the occupier under circumstances consistent with such repair having been done by the occupier for his own convenience is no evidence that the path is repairable *ratione tenuræ*—It is doubtful whether an Action in respect of an injury caused by non-repair will lie against a person liable *ratione tenuræ*. (67 L. J., Q. B., 741: L. R., 2 Q. B., 83: 78 L. T., 561: 14 *Times* L. R., 440.)

1898, Nov. 25. [755]

Sandgate U. D. C. *v.* **Kent C. C.** Sea-wall adjoining main road—The expenses of maintaining a main road along the sea held to include the expense of maintaining a sea wall and groynes which were necessary for the protection of the road, though part of the road next the sea-wall was laid out as an esplanade. (79 L. T., 425: 15 *Times* L. R., 59.)

8. Miscellaneous Highway Cases.

(1.) RIGHTS AS TO SOIL ADJACENT TO HIGHWAYS

1897, Nov. 11. [756]

Locke-King *v.* **Woking U. D. C.** Where a highway, though of varying and unequal width, runs between fences, the public right of way extends, *primâ facie*, over the whole space between the fences — The effect of descriptions in Special Acts of Parliament affecting interests in land considered. (77 L. T., 790: 14 *Times* L. R., 32.)

1894, Feb. 22. [757]

Pryor *v.* **Petre.** Where land adjoining a highway is conveyed, the soil of the highway *ad medium filum* is presumed to pass by the

conveyance—But the presumption may be rebutted—Mere reference to a plan, the measurement and colouring of which excludes the highway, does not rebut—The highway and the other land on the Ordnance Map referred to in the Deed numbered separately; trees on the highway not included in the timber valuation; highway excluded by the measurement and colouring of the plan—These three circumstances taken together held to rebut the presumption. (L. R., 2 Ch., 11: 70 L. T., 331: 10 *Times* L. R., 303.)

1899, Jan. 30. [758]
St. Mary, Battersea, Vestry *v.* **County of London Electric Light Co.** "Metropolis Management Act, 1885," § 96—The vesting of a street in the Local Authority only vests such property as is necessary for the maintenance of the street as a public highway—Therefore the existence in the subsoil of electric mains, though unlawfully laid, is not such a continuing trespass as to entitle the Highway Authority to a mandatory Injunction requiring the removal of the mains—*Tunbridge Wells* v. *Baird* [1896] followed. (68 L. J., Ch., 238: L. R., 1 Ch., 474: 80 L. T., 31: 15 *Times* L. R., 175.)

1897, March 18. [759]
Salt Union *v.* **Harvey.** "Public Health Act, 1875," § 149—A license granted by the Highway Authority to lay pipes for trading purposes in a street does not entitle the licensee to do so as against the owner of the soil, even though such pipes are laid in the macadam or made ground of the roadway—Held also that a grant by King John in 1215 did not rebut the presumption that the soil of a highway is vested in the owner of the adjacent land, there being no evidence that the soil had been vested in the king. (61 J. P., 375: 13 *Times* L. R., 297: *Loc. Gov. Chron.*, 1897, p. 391.)

1898, March 10. [760]
Sydney Municipal Council *v.* **Young.** Colonial Acts—The diverting of a street into a tramway held not a taking of property for public purposes—The Colonial Act, which vests public ways in a Municipal Council, does not thereby confer proprietary rights: the vesting is only for purposes incidental to the exercise of Municipal Authority. (67 L. J., P. C., 40: L. R., A. C., 457: 78 L. T., 345.)

1896, May 4. [761]
Tunbridge Wells, Mayor *v.* **Baird.** "Public Health Act, 1875," §§ 4, 39, 149: Local Act. Public conveniences—Vesting of subsoil—A declaration in a Local Act of a place being a "public place" does not imply the dedication of more than the surface, and a Local Authority is not entitled to excavate and construct public conveniences below—The subsoil remains vested in the original owner—*Dicta* in *Coverdale* v. *Charlton* [1878] as to vesting of subsoil disapproved. (65 L. J., Q. B., 451: L. R., A. C., 434: 74 L. T., 385: 12 *Times* L. R., 372.)

1898, April 20. [762]
White's Charities, In re, Charity Commissioners *v.* **London Corporation.** The presumption that half the soil of a road is intended to pass under a conveyance of land described as bounded by a public thoroughfare applies equally to streets in a town as to highways in the country—This presumption is not rebutted by the fact that the vendor is the owner of the soil beyond the *medium filium*—In such cases the presumption is that the conveyance passes the soil of the highway so far as it is vested in the vendor. (67 L. J., Ch., 430: L. R., 1 Ch., 659: 78 L. T., 550.)

(2.) EXTRAORDINARY TRAFFIC.

1897, Jan. 16. [763]
Colchester-Wemyss *v.* **Gloucestershire C. C.** "Highways Act, 1878," § 23—Extraordinary Traffic—Where contractors have the regulation of the traffic with traction engines along a highway, including the weights to be carried and times to be observed, they are persons "by whose order, &c.;" notwithstanding that the persons who employ the contractors indicate the time during which they will be ready to receive the goods carried. (66 L. J., Q. B., 290.)

1902, April 16. [764]
Egham R. D. C. *v.* **Gordon.** "Highways Act, 1878," § 23: "Locomotives Act, 1898," § 12—Defendant, about to build a house, entered into a contract with a Brick Company to supply bricks—No special instructions for their delivery—Brick Company used a traction-engine to draw the bricks, and did great damage to the public roads—Held that defendant was not liable under § 23 for the misfeasance of the Brick Company. (L. R., 2 K. B., 120: 87 L. T., 31: 66 J. P., 759: 18 *Times* L. R., 515.)

1900, Aug. 11. [765]
Epsom U. D. C. *v.* **London C. C.** "Highways Act, 1878," § 23: "Locomotives Act, 1898," § 12—Building contract between defendants and a firm of builders followed by a second contract—Damage to the Highways of the Plaintiff Council—Held that they were entitled to succeed because the extraordinary traffic had been conducted "by or in consequence of" the order of the Defendants within § 12 of the Act of 1898, but the proceedings to recover the damage under the first contract were too late, having been commenced more than 6 months after the completion of that contract. (69 L. J., Q. B.,

933: L. R., 2 Q. B. 751: 83 L. T., 284: 16 *Times* L. R., 571.)

1893, Nov. 13. [766]
Etherley Grange Co. *v.* **Auckland H. B.** "Highways Act, 1878," § 23—In determining whether traffic is "extraordinary" regard must be had, not to all the roads in the neighbourhood, but to the particular road—Therefore colliery owners, who had carted coal to a railway station *viâ* a particular road, were held liable for extraordinary traffic, though other coal-owners ordinarily used other roads in a similar manner—*Hill* v. *Thomas* [1893] followed. L. R., [1894] 1 Q. B., 37: 69 L. T., 702: 58 J. P., 102: 10 *Times* L. R., 62.)

1893, Aug. 10. [767]
Hill *v.* **Thomas.** "Highways Act, 1878," § 23—"Extraordinary traffic," as distinct from "excessive weight," includes all such repeated user of a road by a person's vehicles as is out of the common order of traffic and calculated to damage the highway and increase the cost of repairing it—Followed in *Etherley* v. *Auckland* [1893]. (62 L. J., M. C., 161: L. R., 2 Q. B., 333: 69 L. T., 553: 57 J. P., 628.)

1897, July 23. [768]
Kent C. C. *v.* **Gerard (Lord).** "Highways Act, 1878," § 23—Goods purchased to be delivered at a certain place by means of traction engines, the transport causing "extraordinary traffic" within the Act—Purchaser held not to be the person "by whose order" such traffic is conducted so as to render him liable for the expenses of repairing damage done to the road by the conveyance of such goods. (66 L. J., Q. B., 677: L. R., 1897, A. C., 633: 13 *Times* L. R., 536: [*G.* v. *K.*] 76 L. T., 8.)

1894, Dec. 20. [769]
Kent C. C. *v.* **Vidler.** "Highways Act, 1878," § 23—Contractors contracted with owners of traction engines to convey ballast from wharf to place of delivery, exercising no control over the user of the engines, the weight carried, or the route—Road damaged—Held that the contractors who hired the traction engines were liable as the persons by whose order the traffic had been conducted. (64 L. J., M. C., 77: L. R., [1895] 1 Q. B., 448: 72 L. T., 77.)

1898, July 27. [770]
Pethick *v.* **Dorset C. C.** P. contracted with County Council to build a lunatic asylum, and in his contract agreed to indemnify the Council against all claims for damage by extraordinary traffic.—P. entered into a subcontract with T. to haul the materials under P.'s directions, and, in particular, not to use any traction-engine not certified by P.'s foreman as suitable—T. agreed to indemnify P. as regards extraordinary traffic in the same terms as P. had indemnified the Council—Held that P. was not the person liable for damage as the person "by whose order" the traffic had been conducted. (62 J. P., 579: 14 *Times* L. R., 548.)

1892, June 2. [771]
Story *v.* **Sheard.** "Highways Act, 1878," § 23—Proceedings under this Section are in the nature of an Action for a personal tort, and therefore cannot be taken against an Executor of the person in whose lifetime and by whose order the damage was caused. (61 L. J., M. C., 178: L. R., 2 Q. B., 515: 67 L. T., 423.)

1895, March 5. [772]
Wirral H. B. *v.* **Newell.** "Highways Act, 1878," § 23—A certificate of a Highway Surveyor as to extraordinary expenses is not bad because it includes more than one highway and does not particularise the highways included—A separate certificate need not be given in respect of each highway. (64 L. J., M. C., 181: L. R., 1 Q. B., 827: 72 L. T 535: 11 *Times* L. R., 275.)

1895, May 2. [773]
Wolverhampton, Mayor *v.* **Salop C. C** "Highways Act, 1878," § 23—The Carting of coal along a main road, in carts, every weekday, driven in strings of 4 or 5 carts at a time, each cart drawn by one horse, and only 2 or 3 drivers in charge, and 5 journeys each way each day, the carts being so driven that they keep the same track, and thus do not distribute the wear of the road, is "extraordinary traffic," as it is the passage of articles over a road which substantially increases the ordinary wear and tear of the road. (64 L. J., M. C., 179: 43 W. R., 494: 11 *Times* L. R., 386.)

9. Bridges.

1902, June 4. [774]
Attorney-General *v.* **Oxford Canal Co.** A Canal Company, liable to repair bridges and "the wing walls, ramparts, and side banks thereof," but not to repair "roads approaching bridges" beyond the extremity of the wing walls thereof, is not liable to repair the fences to the raised approaches to the bridges. (71 L. J., Ch., 660: 87 L. T., 93: 66 J. P., 698. Affirmed on appeal, Feb. 24, 1903, 19 *Times* L. R., 277.)

1898, May 20. [775]
Bury St. Edmund's Corporation *v.* **West Suffolk C. C.** "Local Government Act, 1888," §§ 6, 35 (2)—Bridges, not County bridges, taken over by County Council—A Quarter Sessions Borough of greater population than 10,000 which was liable to repair bridges within the Borough, and exempt from contributing to then existing County

bridges, cannot be charged by the County Council for any bridge purposes under § 6. (67 L. J., Q. B., 750: L. R., 2 Q. B., 246: 78 L. T., 624: 14 *Times* L. R., 436.)

1901, July 15. [776]
Campbell-Davys *v.* **Lloyd.** "Statute of Bridges" (22 Hen. VIII., c. 5.)—Bridge out of repair—Special state of circumstances—There is a broad difference between removing an obstruction wrongfully placed on a highway, and making good by a permanent structure the result of mere non-feasance on the part of those whose duty it is to repair—Therefore one of the public merely entitled to use a bridge carrying a highway over a river, is not justified in entering on land and re-erecting a bridge which has fallen into decay—Such action cannot properly fall under the term "abatement," even if the right to "abate" can be said to exist at all in the case of a nuisance arising from mere non-feasance—Where there is no obligation to repair, there can be (in the absence of special power given) no right to repair; and the default of a Local Authority cannot extend the burden placed upon the land; or give to other persons a right which would not have existed if the Local Authority had not been in default. (L. R., 2 Ch., 518: 49 W. R., 710: 17 *Times* L. R., 678.)

1898, April 25. [777]
Cuckfield R. D. C. *v.* **Goring.** "Local Government Act, 1894," § 25 (2)—Wooden footbridges—Proceedings in respect of a highway repairable *ratione tenuræ* must be taken against the occupier of the land, and not against the owner when he is not in occupation. (67 L. J., Q. B., 539: L. R., 1 Q. B., 865: 78 L. T., 530: 14 *Times* L. R., 362.)

1902, May 14. [778]
Hertfordshire C. C. *v.* **Barnet R. C.** "Highways and Bridges Act, 1891," § 3—A Surveyor of Highways entered into a contract with a County Council for himself and successors, as the Highway Authority of a parish, to contribute towards the building of a bridge a certain sum, payable in 2 instalments, the second of which would fall due after the expiration of his year of office—Held that he had power to make such a contract. (71 L. J., K. B., 611: L. R., 2 K. B., 48: 86 L. T., 880: 66 J. P., 531.)

1899, March 23. [779]
London & North Western Railway *v.* **Ogwen D. C.** "Railways Clauses Act, 1845," §§ 16, 46—Road diverted by railway company and carried by bridge over line 347 yds. distant from place where old road would have crossed line on level—Old road disused and surface thrown into adjacent fields—Company repaired bridge but not approaches, being the new road—Application by Highway Authority for Order directing Railway Company to repair approaches—Held that there being no evidence of any constructional necessity which alone would justify a diversion of the old road under § 16, the bridge and its approaches could not be said to have been made under § 46, and therefore the Company was not bound to maintain either bridge or approaches under that Section. (80 L. T., 401: 63 J. P., 295: 15 *Times* L. R., 291.)

1898, Nov. 28. [780]
New Windsor Corporation *v.* **Taylor.** Ancient right to take Bridge Tolls confirmed by Local Act in 1734—This Act, repealed in 1819 by an Act authorising the erection of a new bridge and a new tariff—Expiry of the 1819 Act, which was temporary—Held that the original prescriptive right had been merged in, and extinguished by the Act of 1734, and had not been revived by the later Act, and therefore that the right to take tolls ceased on the expiry of the Act of 1819. (68 L. J., Q. B., 87: L. R., [1899] A. C., 41: 15 *Times* L. R., 67: [*W. v. T.*] 79 L. T., 450.)

1894, Aug. 7. [781]
Nottingham C. C. *v.* **Manchester, Sheffield & Lincolnshire Railway Co.** "Local Government Act, 1888," § 11—A Canal Company was authorised by its Special Act to cross a highway and make good the severed highway by building a bridge over it, with the necessary approaches—Canal acquired by defendant Railway Company; and road made a main road under the "Highways Act, 1878," § 13—Held that, as the bridge would have been useless without the approaches, the latter were practically part of the bridge; and that the obligation resting on the Railway Company to repair the bridge extended also to the approaches. (71 L. T., 430.)

1901, Aug. [782]
Rex *v.* **Staffordshire & Worcestershire Canal Co.** "Statute of Bridges" (22 Hen. VIII., c. 5): Special Act—Approaches to a bridge being out of repair, County Council called upon defendants to do the necessary work, alleging that the above Statute applied, and that there was a liability on defendants to repair 300 ft. at each end—Held that, without deciding the question whether the Statute of Bridges did apply, the defendants were liable to repair to the extent of the actual disrepair, 65 ft. on one side and 36 ft. on the other—Indictment amended accordingly. (At Assizes.) (65 J. P., 505.)

PART III.—COUNTY COUNCILS.

*** *A considerable number of Cases in which County Councils have been either Plaintiffs or Defendants will be found scattered over the preceding pages. The cases here given are chiefly those which could not be easily classified.*

Miscellaneous Cases.

1894, Aug. 8. [783]
Bedfordshire C. C. & Bedford U. S. A., In re. "Local Government Act, 1888," §§ 11, 35—Where an Urban Authority retains its powers of maintaining the main roads in its district, the amount payable by the County Council in respect of such roads can only be settled, in default of agreement, by the arbitration of the Local Government Board. (64 L. J., Q. B., 26: L. R., 2 Q. B., 786: 71 L. T., 423.)

1895, Nov. 18. [784]
Burslem Corporation & Staffordshire C. C., In re. "Highways Amendment Act, 1878," § 13—"Local Government Act, 1888," § 11—Where under the last-named enactment an Urban Council undertakes the repair of main roads within its district the liability of the County Council to contribute to the costs includes liability to contribute to the costs of paved footways at the side of disturnpiked roads which were constituted main roads by § 13 of the Act of 1878—*Warminster, In re, & Wilts C. C.* [1891] approved. (65 L. J., Q. B., 1: L. R., [1896] 1 Q. B., 24: 73 L. T., 651: 12 *Times* J. R., 48.)

1896, April 28. [785]
Derby C. C. *v.* Matlock Bath U. D. C. "Highways Act, 1878," § 13: "Local Government Act, 1888," § 11—When a main road within an Urban District is repaired by a County Council, footways at the side of such a road must also be repaired by the County Council—*Warminster & Wilts* [1891] approved. (65 L. J., Q. B., 419: L. R., A. C., 315: 74 L. T., 595: 12 *Times* L. R., 350.)

1895, April 3. [786]
Isle of Wight Highway Commissioners, In Re. "Local Government Act, 1888," §§ 11, 12, 22, 100: "Local Government Act, 1894," §§ 25, 70, 75—Transfer of Powers of Highway Authority to District Council—Circumstances under which a County Council becomes liable for road repairs on a transfer. (72 L. T. 549: 59 J. P., 438.)

1896. [787]
Melville, Ex parte. "Local Government Act, 1888"—*Mandamus* to Returning Officer to hold an election, though the statutory period had expired. (*Loc. Gov. Chron.*, 1896, p. 901.)

1892, Aug. 1. [788]
Montgomeryshire C. C. *v.* Pryce-Jones. "Local Government Act, 1888," § 64—Transfer of County property to Council—What is included in "property"—By agreement between a private owner of certain rooms and the Clerk of the Peace on behalf of the Justices in Quarter Sessions, the Justices were permitted to use the rooms, free of charge, for transacting Quarter Sessions business—Held that the free use of the rooms was not transferred to the County Council. (57 J. P., 308: 8 *Times* L. R., 754.)

1892, June 24. [789]
Reg. *v.* Dolby (No. 1). "Lunacy Act, 1890," § 283—Rates chargeable on Asylum Buildings may properly be charged as part of "expenses" within this Section—The disallowance by District Auditor was wrong, and could not be supported. (61 L. J., Q. B., 809: L. R., 2 Q. B., 301: 67 L. T., 296: *Times* L. R., 662.)

1892, July 2. [790]
Reg. *v.* Dolby (No. 2). "Highways Act, 1878," § 20: "Local Government Act, 1888," §§ 11, 23, 68—Where an Order has been made under § 20 of the Act of 1878, declaring every main road to be repairable by the hundred, and one-half of the expenses to be repayable out of a special Hundred Rate, the repairs are "general County purposes," and the County Fund should be recouped from the Exchequer Contribution Account so much of the expenses as is not provided by the special Hundred Rate. (61 L. J., Q. B., 827: L. R., 2 Q. B., 736: 67 L. T., 619.)

1899, Aug. 11. [791]
Reg. *v.* Glamorganshire C. C. "Local Government Act, 1888," § 9 (3)—Troops summoned by Magistrates to suppress a riot—Application for *Mandamus* to County Council to pay for food and lodging of the troops—Held that no duty was imposed on those who administered the County funds to defray such expenses—*Mandamus* refused. (68 L. J., Q. B., 1047: L. R., 2 Q. B., 536: 18 L. T., 372: 15 *Times* L. R., 537.)

1898, March 3. [792]
Reg. *v.* Stewart. "Municipal Corporations Act, 1882," § 58: "Ballot Act, 1872," § 1—County Council Election—Where a candidate dies between the nomination and the poll, it is the duty of the Returning Officer to countermand the notice of poll. (L. R., 1 Q. B., 552: 78 L. T., 256.)

1895, March 25. [793]
Reg. *v.* Yorkshire W. R., C. C. (1.) "Local Government Act, 1888," § 24 (2*j*)—A Borough maintaining its own Police is entitled to be paid by the County Council one-half of the cost of the pay and clothing of extra Police temporarily drawn from another Police Force under "The Police Act, 1890," § 25, and paid for by agreement. (64 L. J., M. C., 144: L. R., 1 Q. B., 805: 72 L. T., 520: 11 *Times* L. R., 311.)

1896, May 1. [794]
Walker *v.* Stretton. "Local Government Act, 1888," § 16—By-Law requiring lights except during moonlight—Held not unreasonable, and that Justices ought to have convicted. (60 J. P., 313: 12 *Times* L. R., 363.)

1895, Dec. 10. [795]
West Sussex C. C., In Re. "Municipal Corporations Act, 1888," § 70 (1-2): "Local Government Act, 1888," § 75—Where an election for a casual vacancy has been omitted to be held or has been a void election, applications should be made to the Court for a *Mandamus* for an election to be held on an appointed day. (65 L. J., Q. B., 184: 73 L. T., 566: 12 *Times* L. R., 55.)

PART IV.—RATES.

1. Appeals against Rates.*

1891, Dec. 9. [796]
Dent *v.* **Commondale Overseers.** Liquidator rated—No appeal—Held that he should have appealed, but not having appealed must pay the Rate. (56 J. P., 519.)

1898, May 5. [797]
Horton *v.* **Walsall Union.** "Parochial Assessment Act, 1836," § 1—Where the Rating Authority has entered in the Rate Book the gross estimated rental of premises, and the ratepayer appeals to Quarter Sessions against the Rate, the Authority is bound by its own entry, and is not entitled to call evidence at Quarter Sessions to show that the gross estimated rental has been fixed too low. (67 L. J., Q. B., 804: L. R., 2 Q. B., 237: 78 L. T., 684: 14 *Times* L. R., 391.)

1894, Aug. 2. [798]
London C. C. *v.* **St. George's Union Assessment Committee.** "Valuation (Metropolis) Act, 1869," §§ 20, 32, 42—The Council appealed against a Valuation List on the ground that the totals of the gross and rateable values in the parish were too low, and mentioned particular properties as proofs—Held that this was in reality an Appeal against the valuation of such properties which (under §§ 20 and 32) the Council was not competent to bring—Prohibition to restrain Quarter Sessions from hearing an Appeal granted—The High Court in making a Rule absolute for a Prohibition without pleadings has jurisdiction to grant Costs. (64 L. J., Q. B., 48: L. R., A. C., 600: 71 L. T., 409: *Reg.* v. *London County JJ.*, 10 *Times* L. R., 645.)

1895, May 30. [799]
Midland Railway Co. *v.* **Edmonton Union.** Though nothing has been said to the contrary, consent to tax out of Sessions the Costs of an Appeal cannot be implied from the universal custom to do so—And in such a case a subsequent Court of Quarter Sessions has no jurisdiction to order such Costs to be taxed. (64 L. J., Q. B., 710: L. R., A. C., 485: 72 L. T., 811: 11 *Times* L. R., 448.)

* See footnote on p. 1 (*ante*), substituting for *Handy Digest*, etc., the words *The Law relating to Local Rates*, 2nd edition, 1889.

1893, Aug. 7. [800]
Reg. *v.* **Bolinbroke.** 16 Geo. II., c. 18, § 1: 27 & 28 Vict., c. 39, § 6—The former enactment gave the Justices of a corporate city, sitting at Special Sessions, jurisdiction to hear an Appeal against a Poor Rate, notwithstanding that they were rated to the relief of the poor in the parish for which the Rate appealed against was made; and the latter enactment did not impliedly take away that jurisdiction. (62 L. J., M. C., 180: L. R., 2 Q. B., 347: 69 L. T., 717.)

1900, Feb. 6. [801]
Reg. *v.* **De Grey.** "Poor Relief Act, 1743," § 4: "Local Government Act, 1894," § 33—An appeal to Quarter Sessions may be entered and respited though Notice of Appeal has not been given under the Act of 1743—*Quære*, To whom should Notice of Appeal against a Poor Rate now be given, in cases where the duties of Overseers in appeals have been transferred to the Urban Authority?—*Reg.* v. *Kent JJ.* [1899] not followed. (69 L. J., Q. B., 341: L. R., 1 Q. B., 521: 82 L. T., 324: 16 *Times* L. R., 182.)

1894, Nov. 14. [802]
Reg. *v.* **Essex JJ.** "Union Assessment Committee Amendment Act, 1864," § 2—An Assessment Committee is not entitled to the Costs of any Appeal where they have not obtained the consent of the Guardians to their appearing as respondents. (64 L. J., M. C., 39: L. R., [1895] 1 Q. B., 38: 71 L. T., 832: 11 *Times* L. R., 43.)

1901, Nov. 20. [803]
Rex *v.* **Essex JJ.** "Union Assessment Amendment Act, 1864," § 1—Where an appellant who has objected before an Assessment Committee to his assessment, and on failing to obtain relief has gone to the Sessions against the current Rate, before he can obtain relief from a subsequent Rate he must give a fresh Notice of Objection. (71 L. J., K. B., 148: L. R., [1902] 1 Q. B., 180: 85 L. T., 678: 66 J. P., 261.)

1899, May 3. [804]
Reg. *v.* **Kent JJ.** "Local Government Act, 1894," §§ 5, 6, 19, 52—A Railway Company

appealed to Quarter Sessions against their assessments to the Poor Rate in 11 parishes, 7 of which had Parish Councils and 4 Parish Meetings—When the appeal came before Justices the respondents raised the point that the Company had not served Notices of Appeal against the Rate within proper time on the Parish Councils, and the Justices refused to enter and respite the appeal to allow of notices being served—On an application for a *Mandamus* to Justices to enter and respite the appeals in order that notices might be served, it was held by the Court that, as notices had not been duly served, there was no appeal which could be entered, &c.—Further, that as the Rule *Nisi* only mentioned Parish Councils, it was not necessary to decide whether Parish Meetings ought also to be served with Notices of Appeal or not. (80 L. T., 622.)

1896, May 6. [805]
Reg. *v.* **London JJ. (4.)** "Valuation (Metropolis) Act, 1869," § 62—A clerk to an Assessment Committee (being neither Counsel or a Solicitor) is not entitled to appear at Quarter Sessions on an Appeal, even merely for the purpose of consenting to a compromise between his Committee and an Appellant. (65 L. J., M. C., 120: L. R., 1 Q. B., 659: 74 L. T., 523: 12 *Times* L. R., 386.)

1891, Feb. 2. [806]
Reg. *v.* **St. Mary Abbott's Assessment Committee.** An aggrieved ratepayer may appear by any proper agent, although the latter is not a solicitor. (60 L. J., M. C., 52: L. R., 1 Q. B., 378: 64 L. T., 240: 55 J. P., 502: 7 *Times* L. R., 248.)

1896, May 7. [807]
West Ham Assessment Committee *v.* **Essex JJ.** "Union Assessment Committee Amendment Act, 1864"—An Assessment Committee are not entitled to costs of appearing as Respondents at Quarter Sessions in support of a Poor Rate unless the conditions precedent imposed by § 2 have been fulfilled; and the consent of the Guardians to the appearance has been duly obtained. (65 L. J., M. C., 231: L. R., A. C., 443: [*W. v. L. C. C.*] 75 L. T., 1.)

1893, Dec. 19. [808]
Workington Overseers, Ex parte. A Justice is not disqualified for acting at Special Sessions in the determination of a rating appeal by reason of the fact that he is a ratepayer in the parish in which the Rate appealed against was made—*Reg.* v. *Bolingbroke* [1893] followed. (L. R., [1894] 1 Q. B., 416: 70 L. T., 143: 57 J. P., 381: 10 *Times* L. R., 173.)

2. Audit of Accounts: Borrowing on Security of Rates: General Principles of Finance.

1894, Aug. 3. [809]
Attorney-General *v.* **Camberwell Vestry.** It is illegal for a Vestry to spend money out of the Rates for the purpose of inducing persons not to pay the charges of a Water Company for a fixed bath. (63 L. J., Ch., 878: 71 L. T., 478: W. N., 1894, p. 163: 10 *Times* L. R., 653.) [But see now "Metropolis Water Act, 1897" (60 & 61 Vict., c. 56), § 2.]

3. Compositions, Allowances, and Exemptions.

1899, May 12. [810]
Bingley U. D. C. *v.* **Midland Railway Co.** "Public Health Act, 1875," § 227: Local Act—Application of the principles of rating under the General Act to the special circumstances of the exemptions authorised by the Local Act—§ 227 does not affect the rights of canal and railway owners to be rated in respect of one-fourth only of annual value. (80 L. T., 725.)

1890, July 10. [811]
Lancashire & Yorkshire Railway Co. *v.* **Bolton Union.** "Public Health Act, 1875," §§ 161, 207, 211, 229, 230, 276, and 295—Urban lighting powers conferred on Rural Sanitary Authority—Such expenses held "general expenses," and Company not entitled to the railway exemptions conferred by § 211. (60 L. J., Q. B., 118: Q. B. D., L. R., 15 App. Cas., 323: 63 L. T., 358: 54 J. P., 532.)

1900, Jan. 29. [812]
Sion College *v.* **London Corporation.** Local Acts—By an Act of 1767 certain lands in the City of London were declared exempt from all Rates—By an Act of 1848, a Consolidated Rate was created to apply to lands, &c., not liable to Poor Rate—Held that the former Act was constructively repealed by the latter. (70 L. J., Q. B., 369: L. R., 1 Q. B., 617: 84 L. T., 133: 17 *Times* L. R., 223.)

4. Deficiency.

1902, June 11. [813]
Islington, Mayor *v.* **London School Board.** "Lands Clauses Act, 1845," § 133: "London Government Act, 1899," § 10: "Education Acts, 1870 and 1873"—A School Board taking lands compulsorily is a "Promoter" and liable to make good deficiency in Rates; but only such proportion of the General Rate as represents the amount of the Poor Rate. (L. R., 2 K. B., 701: 87 L. T., 177: 18 *Times* L. R., 657.)

1891, Feb. 7. [814]
Putney Overseers *v.* **L. & S. W. R. Co.** Proposed Railway assigned by its Promoters to another Company—Land purchased to buy off opposition—Liability of Promoters to make good deficiency in Poor Rates—Assignee Company held liable notwithstanding the peculiar circumstances under which the land was taken. (60 L. J., Q. B., 438: L. R., 1 Q. B., 441: 63 L. T., 802: 55 J. P., 422: 7 *Times* L. R., 271.)

1895, May 17. [815]
St. Leonard, Shoreditch, Vestry *v.* **London C. C.** "Lands Clauses Act, 1845," § 133: "Poor Rate Assessment Act, 1869," § 3—Promoters took land, the owners of houses on which had agreed to pay the Rates instead of the occupiers for the sake of the 25 per cent. allowance—Held that the deficiency which the promoters had to make good must be computed having regard to the rateable value when the Special Act was passed, and that they were not entitled to claim the allowance which had been made to the Landlords. (64 L. J., Q. B., 615: L. R., 2 Q. B., 104: 72 L. T., 802: 11 *Times* L. R., 420.)

5. Legal Formalities and Points of Practice.

1891, July 9. [816]
Allchurch *v.* **Hendon Union.** House not structurally severed let to 2 tenants, each having distinct rooms, but a closet and garden in common—Held that such tenants could not be rated as joint occupiers, but that each must be separately assessed. (61 L. J., M. C., 27: L. R., 2 Q. B., 436: 65 L. T., 450: 56 J. P., 117: 7 *Times* L. R., 634.)

Aug. 2. [817]
Allen, In Re. The "Summary Jurisdiction Acts, 1879 and 1884," and the "Interpretation Act, 1889," have not had the effect of superseding the remedy by Distress and Imprisonment for the recovery of Rates under the "Metropolis Local Management Act, 1855," in the same manner as Poor Rates—A married woman with houses as separate property agreed with Overseers to pay Rates on those houses whether occupied or not, and received a substantial reduction—On default in payment it was held that she had made no contract with the Overseers in respect of the Rates so as to bring her within the "Married Woman's Property Act, 1882," § 1, and the decision in *Scott* v. *Morley* (20 Q. B. D., 120), and therefore was liable to the ordinary remedy for the recovery of Poor Rates, namely Distress followed by imprisonment in default of sufficient distress—*Habeas Corpus* refused. (63 L. J., M. C., 267: L. R., 2 Q. B., 924: 10 *Times* L. R., 647.)

1892, Nov. 26. [818]
Attorney-General *v.* **Deeping St. Nicholas Churchwardens.** County Rate and Poor Rate—Parish in 2 counties—Each portion allocated by a Local Act to its own county for rating purposes—Held that each portion was to be separately rated, and not one Rate levied on the whole parish as if it were an undivided parish. (62 L. J., Ch., 188: 68 L. T., 278: 57 J. P., 196.)

1901, July 11. [819]
Attorney-General *v.* **Tamworth R. D. C.** Award under an Inclosure Act setting out certain roads and a watercourse, and making provision for repair of the latter by a Rate—Held that the Inclosure Commissioner had not exceeded his powers in prescribing a Rate, and that a Rate duly made was valid. (85 L. T., 199.)

1895, May 28. [820]
Baglan Bay Tinplate Co. *v.* **John.** "Public Health Act, 1875," §§ 210, 211—A person summoned for non-payment of a Rate is entitled to call evidence to show that his premises are not situated within the area for which the Rate is made. (72 L. T., 805.)

1895, Feb. 4. [821]
Bates *v.* **Plumstead Overseers.** "Metropolis Management Act, 1855," §§ 159, 161—Distress Warrant issued in due form for the recovery of a Rate which had not been appealed against—Held that, as the Rate was good on the face of it, the Distress Warrant was rightly issued, as the Magistrate had no jurisdiction to entertain an objection that the expenses for which the Rate was levied were recoverable only under §§ 52, 53, in which case the property would have come within the exemption in § 52—Such a question could only be determined on appeal to Quarter Sessions. (64 L. J., M. C., 127: 72 L. T., 393.)

1894, Nov. 21. [822]
Blazer Fire Lighter, In Re. "Companies Act, 1882"—Company in liquidation—If the liquidator of a Company chooses to occupy the Company's premises because he thinks he may get a better price by waiting before selling them, he must pay in full the Rates becoming due in respect of the premises after the commencement of the liquidation: and if such Rates are not paid they may be distrained for. (64 L. J., Ch., 161: L. R. 1895, 1 Ch. 402: 11 *Times* L. R., 65.)

1900, Dec. 18. [823]
Burton *v.* **St. Giles's Vestry.** "Valuation (Metropolis) Act, 1869," § 44—An alteration in a Valuation List on appeal to a Superior Court is not confined to a mere alteration in the amount of the assessment; but the striking out from a Valuation List of the

name of an occupier is equally an alteration within the Section—So where, in such a case, the person wrongly entered as occupier has been compelled to pay Rates he can maintain an Action for repayment of the same. (70 L. J., Q. B., 127: 84 L. T., 30: 17 *Times* L. R., 163: [*Burton* v. *Bloomsbury Vestry*] L. R., [1901] 650.)

1890, April 29. [824]
Caistor Union *v.* **North Kelsey Overseers.** 22 & 23 Vict., c. 49, § 6—Circumstances under which a Poor Rate may be valid although it contains a retrospective item. (59 L. J., M. C., 102: 62 L. T., 731.)

1900, Jan. 18. [825]
Davis *v.* **Woodfield.** "Poor Rate Assessment Act, 1869," § 16: "Amendment Act, 1882," § 3—In apportioning a Rate because the ratepayer goes out of occupation during the currency of the Rate, the *terminus a quo* for the period of the Rate is the date when it was allowed by Justices. (81 L. T., 782: 64 J. P., 215.)

1895, May 1. [826]
Dodds *v.* **South Shields Union.** "Parochial Assessment Act, 1836,"—Public-house—Appellant, tenant of a licensed house in a locality where there were several other premises of the same description, appealed against a Poor Rate on the ground that his premises were overrated—The Assessment Committee tendered evidence as to Appellant's weekly takings with a view of showing his profits on the premises—Held that such evidence was irrelevant, and ought not to be admitted—The ordinary test is to inquire what rent the house would command, not what would be given for the business carried on there. (64 L. J., Q. B., 508: L. R., 2 Q. B., 133: 72 L. T., 645: 11 *Times* L. R., 379.)

1892, Feb. 3. [827]
Fourth City Building Society *v.* **East Ham Churchwardens.** "Interpretation Act, 1889," § 13 (11)—Justices sitting to hear an application for a Distress Warrant for non-payment of Poor Rate are not necessarily exercising a ministerial duty, but may inquire into the validity of objections taken, and may state a Case. (L. R., 1 Q. B., 661: 55 J. P., 440.)

1897, Nov. 6. [828]
Heywood, In Re. "Preferential Payments in Bankruptcy Act, 1888," §§ 1 (1*a*, 6), 3—Rates due from person dying insolvent—Held that § 1 applies where the estate of the person so dying is administered in the Chancery Division as well as where it is administered in Bankruptcy. (67 L. J., Ch., 25: L. R., 2 Ch., 593: 77 L. T., 423.)

1899, June 17. [829]
Hill *v.* **Crediton U. D. C.** "Public Health Act, 1875," §§ 216, 269—Local Act—Rate for highway expenses in Urban District—District extended—Limits of Local Act unaltered—Rate over whole District partly for highway expenses—Rate held good. (80 L. T., 861.)

1895, Dec. 7. [830]
Hunter Water Board *v.* **Newcastle Coal Co.** Colonial Act—Appellants authorised to levy a Water Rate in respect of lands, &c., not more than 60 yards distant from any main although such lands, &c., were not connected with any main—Held that they had no authority to levy a rate on land beyond the prescribed limit merely because such lands formed one holding with other lands within the prescribed limit. (65 L. J., P. C., 1: L. R. [1896] A. C., 82: 73 L. T., 541.)

1901, Feb. 7. [831]
Keeton *v.* **Sheffield Coal Co.** "Public Health Acts"—General District Rate—Where a ratepayer appeals against his assessment to a Poor Rate and gets it reduced, the time for the recovery of the reduced General District Rate runs from the date of the demand of the reduced Rate and not from the demand of the Rate, as it originally stood. (70 L. J., K. B., 374: L. R., 2 K. B., 26: 84 L. T., 387.)

1896, July 30. [832]
Marriage, Neave, & Co., In Re. Where an Order is made appointing a receiver and manager, but there is no delivery up of possession to him, and he enters the premises in order to carry on the business, there is no change of occupation as regards rateability, and the goods are liable to distress for the whole of the parish Rates made for the half-year in which the Order has been made; the existence of an equitable charge on the goods does not protect them from distress where there is no assignment of chattels in the covering deed—*Quære* whether a change of occupation within § 16 of the "Poor Rate Assessment Act, 1869," is created where possession is taken by a Receiver appointed under an Order which directs that possession shall be given to him—*Richards* v. *Kidderminster* [1896] considered. (65 L. J., Ch., 839: L. R., 2 Ch., 663: [*North of England* v. *M.*] 75 L. T., 169: 12 *Times* L. R., 603.

1895, Dec. 5. [833]
Marshland Smeeth Commissioners *v.* **Marshland R. D. C.** "Local Government Act, 1894," §§ 25, 29—§ 25, transferring powers of Highway control, is applicable to Fen Commissioners if the Highway Authorities, but moneys raised by an "Acre Rate," under a Local Act, are not to be treated as available for highway purposes under § 29 of the above Act—Highway expenses in

such a case must be defrayed in manner directed by the "Public Health Act, 1875," as applied by the said § 29. (65 L. J., Q. B., 185: 73 L. T., 563.)

1892, May 14. [834]
Norwood Overseers *v.* **Salter.** "Union Assessment Act, 1869," § 4—A Parish Vestry is only entitled to order the owner of a hereditament to be rated instead of the occupier so long as the rateable value of the hereditament does not exceed the amount specified in § 3. (61 L. J., M. C., 193: L. R., 2 Q. B., 118: 67 L. T., 376: 56 J. P., 535: 8 *Times* L. R., 568.)

1896, Oct. 29. [835]
Reg. *v.* **Bagshaw.** On a summons to enforce a Poor Rate, Justices have jurisdiction, before issuing a Distress Warrant, to inquire whether the person affected by the Rate is in reality the principal person in occupation of the rated property. (75 L. T., 513.)

1891, April 27. [836]
Reg. *v.* **Edlin.** "Valuation (Metropolis) Act, 1869,"—Assessment of Parishes—Alteration in Valuation List—Alteration of total rateable value of parishes without corresponding alteration in value of individual properties—Compromise—*Mandamus* issued to Justices to hear and determine. (65 L. T., 83: 55 J. P., 790: 7 *Times* L. R., 483.)

1898, March 28. [837]
Reg. *v.* **Leigh R. C.** "Public Health Act, 1875," §§ 229, 230—Where judgment has been given against a Rural Authority for a sum chargeable to a contributory place as special expenses, the Court may grant a *Mandamus* to the Authority to issue precept to Overseers of place to levy a Special Rate although the Action in which the judgment was recovered was not commenced for more than a year after the cause of Action arose—The Court will grant the *Mandamus* if such delay was not unreasonable—*Quære* how far, if at all, the rule against retrospective Rates applies to special expenses under § 230?—*Waddington* v. *London Union* [1858] and *Worthington* v. *Hulton* [1865] discussed. (67 L. J., Q. B., 562: L. R., 1 Q. B., 836: 78 L. T., 604: 14 *Times* L. R., 325.)

1893, May 4. [838]
Reg. *v.* **London JJ. (1.)** On a summons for non-payment of a Poor Rate defendant tendered evidence to show that he was only a caretaker—Overseers objected to the evidence being received on the ground that the defendant's remedy was by appealing, and that, as he had not done this, and the Rate was good on the face of it, Justices ought to make an Order, which they did, holding that as defendant's name was on the Rate-book they had no jurisdiction—Held that the Rate-book was not conclusive, and that they were bound to hear the case—*Mandamus* issued. (W. N., 1893, p. 86.)

1899, Feb. 18. [839]
Reg. *v.* **London JJ. (6.)** 43 Eliz., c. 2, § 5: "Poor Relief Act, 1743," § 7—No appeal lies to Quarter Sessions against the issue of a Distress Warrant for the levy of a Poor Rate before the Distress has been levied. (68 L. J., Q. B., 383: L. R., 1 Q. B., 532: 80 L. T., 286.)

1893, Jan. 27. [840]
Reg. *v.* **Price.** Local Act: Various General Acts—Held that, though the Poor Rate in question was assessed under a Local Act, the ratepayer was entitled to appeal against it in accordance with the procedure set up by the General Act, 6 & 7 Will. IV., c. 96—And this though he was assessed at a different figure under different Statutes for other Local Rates, and had not resorted to the appeal provisions of those Statutes—*Mandamus* issued to Justices to hear the appeal. (62 L. J., M. C., 71: 68 L. J., 171: 57 J. P., 294.)

1892, Feb. 4. [841]
Reg. *v.* **St. George's, Southwark, Vestry.** Local Act requiring Vestry to raise a Rate for Rector's stipend—No discretion in Vestry—Peremptory *Mandamus* granted. (61 L. J., Q. B., 398: 67 L. T., 412: 56 J. P., 821: 8 *Times* L. R., 298.)

1894, Dec. 14. [842]
Reg. *v.* **St. Marylebone Vestry.** "Burial Act, 1852," § 36: "Compulsory Church Rates Abolition Act, 1868," § 5—Fees receivable by a Burial Board may be applied to the repairs of a parish church, that being a "parochial purpose" within § 36 of the Act of 1852. (64 L. J., Q. B., 622: L. R., [1895] 1 Q. B., 771: 72 L. T., 11: 11 *Times* L. R., 120.)

1892, Jan. 11. [843]
Reg. *v.* **Selby Dam Drainage Commissioners.** When a Local Act incorporates Commissioners to construct certain works, and empowers them to levy Rates to defray their constructions, there is an implication (unless it is clearly negatived by something in the Act to the contrary) that it is within their power to levy a Rate to provide for a liability incurred through the work being done negligently by their servants. (56 J. P., 356: 8 *Times* L. R., 198: [*Gallsworthy* v. *Selby*] L. R., 1 Q. B., 348: 66 L. T., 17.)

1893, May 4. [844]
Reg. *v.* **Simmonds.** A person summoned to show cause why a Distress Warrant shall not be issued against him for non-payment of a

Poor Rate, has a right to call evidence to show that, though his name appears on the Rate-book as occupier of the premises rated, he is, in fact, a mere caretaker. (62 L. J., M. C., 106: 57 J. P., 324.)

1896 June 11. [845]
Reg. *v.* **Sinclair.** Earls Court Exhibition—Refusal to pay a Rate on the ground that the property ceased to be wholly occupied when the exhibition closed—This was for the Assessment Committee, not for Justices asked to enforce a Rate—***Mandamus*** for Distress Warrant issued. (60 J. P., 551: 12 *Times* L. R., 466.)

1898, Jan. 29. [846]
Reg. *v.* **Tempest.** "Poor Rate Assessment Act, 1869," §§ 14, 16—A Rate is payable in full in respect of premises occupied at the date of the Rate and forwards until the end of the period for which the rate is made, though it covers expenses incurred before the premises were ready for occupation. (14 *Times* L. R., 199.)

1893, July 10. [847]
Reg. *v.* **Wolferstan.** Highway Rate made for a highway parish in which there was no consecrated church—Notices posted on a school-room and at a Wesleyan meeting-house—Held, sufficient publication. (62 L. J., M. C., 148: L. R., 2 Q. B., 451: 69 L. T., 429.)

1891, July 23. [848]
Reg. *v.* **Woolwich Union.** Non-payment of precept for County Rate because, an individual assessment having been slightly altered, the County Council refused to sanction the necessary consequential alterations—***Mandamus*** granted to compel payment. (60 L. J., Q. B., 665: L. R., 2 Q. B., 712: 65 L. T., 460: 55 J. P., 552.)

1894, Jan. 23. [849]
Reigate Union *v.* **South Eastern Railway Co.** "Union Assessment Committee Act, 1862," § 18: "Union Assessment Committee Amendment Act, 1864," § 1—An Assessment Committee approved a Valuation List 5 days before the expiration of the 28 days within which ratepayers could give notice of objection after the public notice of the deposit of the List—Held that the Valuation List and Rate based upon it were bad, § 18 of the Act of 1862 not having been repealed by § 1 of the Act of 1864. (63 L. J., M. C., 65: L. R., 1 Q. B., 411: 70 L. T., 953.)

1896, April 29. [850]
Richards *v.* **Kidderminster Overseers.** "Preferential Payments in Bankruptcy Act, 1888"—This Act does not give any priority to parochial or other local Rates as against debenture-holders or other secured creditors. (65 L. J., Ch., 502: L. R., 2 Ch., 212: 74 L. T., 483: 12 *Times* L. R., 340.)

1894, April 9. [851]
Rose *v.* **Watson.** Local Act authorising the levy of a Church Rate—Held that the making of such a Rate was a statutory duty imposed on the Churchwardens, and, as such, did not require them to take the opinion of a Vestry meeting upon the making of such a Rate; but that the assessment must be on the "net annual rent" or "net value" only of the rateable premises; and that the word "full" was not equivalent to "gross." (63 L. J., M. C., 108: L. R., 2 Q. B., 90: 70 L. T., 906: 10 *Times* L. R., 404.)

1900, July 16. [852]
St. Marylebone Vestry *v.* **County of London Sheriff.** "Metropolis Management Act, 1855:" Local Act—Goods of a judgment debtor seized by Sheriff—Debtor at the time owed local Rates—Rates demanded of the sheriff by the Rate collector, but the demand not complied with—The Sheriff, having received from the debtor the judgment debt, withdrew from possession without having paid the Rate—Held that the goods had been taken in execution, within the meaning of the Local Act, and that the Sheriff was liable to the Vestry for the Rate. (69 L. J., Q. B., 848: L. R., 2 Q. B., 591: 83 L. T., 355: 16 *Times* L. R., 512.)

1896, July 28. [853]
Seaman *v.* **Burley.** "Judicature Act, 1873," § 47—A Judgment upon a special case stated on an application to enforce a Poor Rate by Distress Warrant, is a Judgment in a criminal matter within § 47, inasmuch as the proceedings before the Justices may end in the imprisonment of the person in default, and therefore an appeal will not lie from the Divisional Court to the Court of Appeal. (65 L. J., M. C., 208: L. R., 2 Q. B., 344: 12 *Times* L. R., 599.)

1902, Feb. 24. [854]
Stunt *v.* **Lewisham Union Assessment Committee.** "Valuation (Metropolis) Act, 1869," § 46—Rent of certain small tenements raised—Rates paid by owner—Tenements put into Supplemental Valuation List at an increased annual value—Assessment Committee declined to reduce the assessment—Held, on appeal, that the increase in rent was an alteration which made a Supplemental List necessary. (At Q. Sess.) (66 J. P., 167: *Loc. Gov. Chron.*, 1902, p. 315.)

1897, Jan. 18. [855]
Thames Conservators *v.* **City of London Assessment Committee.** "Thames Conservancy Act, 1894," § 289—Interpretation of Statutory Exemptions from rating—Held that though the offices of the Conservancy

were situated in a district where they might enjoy a statutory exemption, yet as business connected with other districts was transacted there the exemption became inoperative. (13 *Times* L. R., 157.)

1893, May 8. [856]
Walton-on-Hill Overseers *v.* **Jones.** "Poor Rate Assessment Act, 1869," § 2—Where, after the service of the prescribed demand note for the full annual Rate, the occupier claims not to be liable to pay more than a quarter's amount at a time, the one demand note is a sufficient legal demand within 54 Geo. III., c. 170, § 12, for each quarter's instalment as it becomes due; and there is no necessity for a fresh demand note to be served before a Distress Warrant can be issued for any quarterly payment which is in arrear. (62 L. J., M. C., 123: L. R., 2 Q. B., 175: 69 L. T., 319: 57 J. P., 324.)

1892, Feb. 3. [857]
West Ham Churchwardens *v.* **Fourth City Society.** "Sturgis Bourne's Act," 59 Geo. III., c. 12, is impliedly repealed by the more recent "Parochial Assessments Acts," and now owners are not to be rated unless pursuant to the "Poor Rate Assessment Act, 1869." (61 L. J., M. C., 128: L. R., 1 Q. B., 654: 66 L. T., 350: 56 J. P., 438: 8 *Times* L. R., 302.)

1902, May 1. [858]
Westminster City Council *v.* **Army & Navy Auxiliary.** "Valuation (Metropolis) Act, 1869," §§ 9, 45—Where Overseers raise the gross or rateable value of a hereditament, and no notice of such alteration has been served (under § 9) on the occupier, the occupier cannot, on the application for a Distress Warrant to recover the balance of the Rate, raise the objection that no such notice had been served, that objection being one that could only be raised by an appeal against the Valuation List or against the Rate. (71 L. J., K. B., 546: L. R., 2 K. B., 125: 87 L. T., 78: 50 W. R., 631: 66 J. P., 727.)

1901, Oct. 25. [859]
Westminster City *v.* **Edgecombe.** "Valuation (Metropolis) Act, 1869," § 72—A Magistrate has power to insert in a rate-book the name of a person as occupier, notwithstanding that the period for which the Rate was made has expired. (*Loc. Gov. Chron.*, 1901, p. 1228.)

1892, May 2. [860]
Wimbledon L. B. *v.* **Underwood.** "Public Health Act, 1875," §§ 256, 261: "Bill of Sales Amendment Act, 1882," § 14—Held that this last section does not apply where proceedings for the recovery of a Rate have been taken in a County Court under § 261 of the former Act, and not by Distress under § 256 of the same. (61 L. J., Q. B., 484: L. R., 1 Q. B., 836: 67 L. T., 55.)

7. Rating of Asylums.

1909, Jan. 22. [861]
Lancashire Asylums Board *v.* **Manchester Corporation.** "Local Government Act, 1888," § 33: "Agricultural Rates Act, 1896:" Local Act—The Local Act prescribed how contributions for Lunatic Asylum purposes were to be raised from a County and County Boroughs—Held that the Local Act was not affected by the Act of 1896, and that the amounts were to be divided in accordance with the Local Act, and not in accordance with the General Act of 1896. (69 L. J., Q. B., 234: L. R., 1 Q. B., 458: 82 L. T., 1: 16 *Times* L. R., 145.)

8. Rating of Canals.

1894, July 2. [862]
Doncaster Union *v.* **Manchester, Sheffield & Lincolnshire Railway.** Railway Company held not rateable in respect of a towing-path and natural bed of a river, as not being the owners or occupiers of the soil, but having only an easement therein. (L. R., 1895, A. C., 133 *n.*: 71 L. T., 585: 10 *Times* L. R., 567.)

1894, July 16. [863]
Rochdale Canal Co. *v.* **Brewster.** Poor Rate—Exclusive occupation—An occupation of land which is at all times subject to the control of the owner is not such an occupation as to render the occupier rateable to the poor. (64 L. J., Q. B., 37: L. R. 2 Q. B., 872: 71 L. T., 243: 10 *Times* L. R., 595.)

10. Rating of Docks and Marine Property.

1894, June 29. [864]
Blyth Harbour Commissioners *v.* **Newsham Churchwardens.** Harbour Commissioners managing quays rated to Poor Rate—Commissioners entitled to levy dues—Held that the dues received by the Commissioners from vessels using their quays could not be taken into account as enhancing the rateable value of these quays. (63 L. J., M. C., 274: L. R., 2 Q. B., 675: 71 L. T., 34: 10 *Times* L. R., 562.)

1896, Nov. 9. [865]
Lancaster Port Commissioners *v.* **Barrow-in-Furness Overseers.** Poor Rate—Lighthouse dues—Principle of assessment—Dues earned under statutory authority by a lighthouse are not to be taken into consideration in the assessment of the lighthouse to the Poor Rate of the parish in which it is situate—Its structural value appears to be the only basis for the assessment of its rateable value. (66 L. J., Q. B., 90: L. R., [1897] 1 Q. B., 166: 75 L. T., 358: 13 *Times* L. Q., 30.)

1900, Aug. 10. [866]
London & India Docks *v.* **Poplar Union.** Hydraulic cranes held to enhance the rateable value of a dock undertaking—Warehouses outside the rating area in which the docks were situated used for the purposes of the docks—Principles of assessment of the docks—Various special points. (83 L. T., 371: 64 J. P., 820.)

1902, March 3. [867]
London & India Docks *v.* **Woolwich Borough.** "London Government Act, 1899," § 10 (4)—The partial exemption, under the "Public Health Acts," of land covered with water is continued by the London Act, notwithstanding the repeal of the "Public Health Acts" as regards London—The occupier of a hereditament, partly covered with water, may appeal against a Rate on the ground that effect has not been given to the exemption, although the hereditament had been valued as a whole in the Valuation List, and the parts entitled to exemption and the parts not entitled have not been separately valued. (71 L. J., K. B., 394: L. R., 1 K. B., 750: 86 L. T., 619: 66 J. P., 484.)

1896, July 21. [868]
Manchester, Sheffield, & Lincolnshire Railway *v.* **Kingston-upon-Hull Guardians.** Floating pontoon used for embarking passengers and anchored to a pile—Special circumstances of ownership of pontoon and piles and pier used therewith—Railway Company held not rateable as not in the occupation of the property entered in the Rate-book. (75 L. T., 127: 12 *Times* L. R., 539.)

1884, Nov. 23. [869]
Sculcoates Union *v.* **Hull Dock Co.** Dock property in several parishes—Held that the rateable value of the property in each parish ought to be ascertained on the principle of taking the profit-earning capacity of the portion of the property in each parish; not by taking the value of the whole property and apportioning it according to the water area of the docks in each parish—Dock railways prohibited by Statute from earning money held not rateable on the rent which they might have brought in if they might lawfully earn money. (64 L. J., M. C., 49: L. R., [1895] A. C., 136: [*S.* v. *H.*] 71 L. T., 642.)

1890, June 28. [870]
Sutton Harbour Co. *v.* **Plymouth Guardians.** Borough Rate upon occupiers of harbour—Interpretation of ancient charter under which the harbour had been rated 150 years—Rateability of harbour upheld; but modern tramway constructed by a Railway Company held separately rateable to that Company. (63 L. T., 772: 6 *Times* L. R., 400.)

1897, July 9. [871]
Tyne Pontoons Co. *v.* **Tynemouth Assessment Committee.** Poor Rate—Premises occupied for the repair of ships—Floating pontoons on which ships were drawn up to facilitate the work of repairing—Held, that the premises were for purposes of valuation rightly treated as enhanced in value by reason of the pontoons being moored there, notwithstanding that the pontoons were moveable, and were occasionally moved away. (76 L. T., 782: 13 *Times* L. R., 506.)

11. Rating of Factories, Mills, &c.

1902, March 18. [872]
Crockett & Jones *v.* **Northampton Union Assessment Committee.** Where there is machinery on premises which makes them fit for the purpose for which they are used, the suitability of the premises for the machinery and the fact that it is erected therein, ought to be taken into consideration in estimating the rateable value, although the machinery is not affixed to the Freehold—But to value the machinery separately from the building and add a percentage of this to the rateable value of the building is not a correct principle of assessment. (18 *Times* L. R., 451.)

1890, July 15. [873]
Gifford Fox & Co. *v.* **Chard Union.** Machinery, essentially necessary for and permanently attached to premises, held rightly taken into account as enhancing the value of the premises. (63 L. T., 249: affirmed on appeal, 6 *Times* L. R., 431.)

1894, Feb. 26. [874]
Hoyle *v.* **Oldham Union.** Mills not at work for several months, owing to a prolonged strike, but machinery kept warm and in good working order all the while—Held that the owners were not entitled to have the mills assessed merely as warehouses for unemployed machinery. (63 L. J., M. C., 178: L. R., 2 Q. B., 372: 70 L. T., 741: 10 *Times* L. R., 315.)

12. Rating of Gasworks.

1893. [875]
Gaslight & Coke Co. *v.* **Hackney Union.** An increase in the price of gas, charged by a Gas Company, together with a decrease in the cost of production, are two facts which, even if proved, do not necessarily justify an increase in the assessment of a Company's pipes and mains—(At Q. Sess.) (*Times*, March 29, 1893.)

1893, Nov. 4. [876]
Southport, Mayor *v.* **Ormskirk Assessment Committee.** Local Act—The B. Local Board had power to lay gas mains and pipes

within the area of the S. Corporation, which pipes B. had to keep in repair, supplying gas to the S. Corporation for the use of inhabitants of S.—Held that the S. Corporation, having only an easement over the gas mains belonging to B., was not rateable as occupiers of them. (63 L. J., Q. B., 250: L. R., [1894] 1 Q. B., 196: 69 L. T., 852: 10 *Times* L. R., 34.)

13. Rating of Houses and Lands.

1901, June 4. [877]
Bootle-cum-Linacre Overseers *v.* **Liverpool Warehousing Co.** The owner of an empty warehouse, which is unused, and which he has no present intention of using, though he might do so at any moment, is not in the rateable occupation of the warehouse. (85 L. T., 45: 65 J. P., 740: 17 *Times* L. R., 550.)

1897, Jan. 29. [878]
Bursledon Overseers *v.* **Clarke.** Empty house inhabited by caretaker—Some wine and furniture of owner therein—Garden cultivated on his behalf—Owner held rateable. (61 J. P., 261.)

1900, Jan. 11. [879]
Burton *v.* **St. Giles & St. George's Assessment Committee.** "Advertising Stations (Rating) Act, 1889," § 3—Name of advertising contractor inserted in Valuation List as rateable occupier of hoardings hired by him of the builder of certain buildings in course of erection—Held that he did not "permit" the "land" to be used for advertisements within the section, and therefore was not rateable. (69 L. J., Q. B., 184: L. R., 1 Q. B., 389: 82 L. T., 24.)

1900, July 12. [880]
Camberwell Assessment Committee *v.* **Ellis.** "Valuation (Metropolis) Act, 1869," §§ 46–7—To justify the inclusion of a hereditament in a supplemental Valuation List as having altered in value, it must be shown that the alteration is owing to some cause affecting that particular hereditament—It is not sufficient to show that the property was originally undervalued, nor that the particular class of property has risen in value generally—The amount of the premium paid for the lease of a public-house is admissible in evidence on the question of alteration in value. (69 L. J., Q. B., 828: L. R., A. C., 510: 83 L. T., 201: 17 *Times* L. R., 504.)

1900, March 1. [881]
Cartwright *v.* **Sculcoates Union.** Poor Rate—Tied Public-house—Assessment referred to Arbitrator—Evidence as to trade done on premises adduced to show rent that would be given—Held rightly admitted—*Dodds* v. *South Shields* [1895] commented on and somewhat doubted. (69 L. J., Q. B., 403: L. R., A. C., 150: 82 L. T., 157: 16 *Times* L. R., 238.)

1891, Oct. 29. [882]
Chappell *v.* **St. Botolph Overseers.** "Advertising Stations (Rating) Act, 1889," § 3—Hoarding round land on which Post Office buildings were being erected—Hoarding let by builder for advertising purposes—Held that the builder was duly rated, and that the land was "not otherwise occupied" within the meaning of § 3, although, in fact, it was otherwise occupied. (L. R., 1 Q. B., 561: 65 L. T., 581: 56 J. P., 310.)

1900, Dec. 12. [883]
Farnham Flint, &c., Co. *v.* **Farnham Union.** 3½ acres of land hired for digging gravel—2½ acres exhausted, and site used for storing gravel as it came from the last remaining acre—Assessment on the principle that the 2½ acres were worth so much for storage purposes, and the residue at its lettable value as unexhausted land—Principle of valuation held right. (70 L. J., Q. B., 130: L. R., [1901] 1 Q. B., 272: 83 L. T., 660: 17 *Times* L. R., 150.)

1902, June 23. [884]
Gage *v.* **Wren.** "Public Health Act, 1875," § 211 (2)—The tenant of a house removed all her furniture for five winter months, expecting thereby to escape liability for Rates—Held that, as under the circumstances there was evident *animus revertendi*, the liability to Rates did not cease. (87 L. T., 271: 18 *Times* L. R., 699.)

1901, April 25. [885]
Mersey Docks & Harbour Board *v.* **Birkenhead Union Assessment Committee.** Principles of assessment: whether to be based on structural value of premises only or on actual receipts and expenditure—Held that Recorder, sitting as Local Court of Appeal, was justified in combining both methods if he considered that either by itself would fail to afford a true value—*Reg.* v. *Verrall* [1875]: *Clarke* v. *Fisherton-Angar* [1880]: *Dodds* v. *South Shields* [1895]: *Cartwright* v. *Sculcoates* [1899] considered. (70 L. J., Q. B., 584: L. R., A. C., 175: 84 L. T., 542: 17 *Times* L. R., 444.)

1898, June 30. [886]
Pontefract Assessment Committee *v.* **Pontefract Park.** Private Act dated 1780—Land vested in trustees for the benefit of the inhabitants of a borough, and declared for ever free of Poor Rate—Held that, though a portion of it was let to a Race Committee, it still remained exempt from Rates. (78 L. T., 738.)

1899, Dec. 6. [887]
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1900, Oct. 30. [890]
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1900, June 13. [912]
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1877, Feb. 16. [913]
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